

**NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL****28 CFR Part 905**

[NCPPC 111]

**Qualification Requirements for Participation in the National Fingerprint File Program****AGENCY:** National Crime Prevention and Privacy Compact Council.**ACTION:** Proposed rule.

**SUMMARY:** The Compact Council (Council), established pursuant to the National Crime Prevention and Privacy Compact (Compact) Act of 1998, is publishing a proposed rule requiring a Compact Party to meet minimum qualification standards while participating in the National Fingerprint File (NFF) Program.

**DATES:** Submit comments on or before July 22, 2005.

**ADDRESSES:** Send all written comments concerning this proposed rule to the Compact Council Office, 1000 Custer Hollow Road, Module C3, Clarksburg, WV 26306; Attention: Todd C. Commadore. Comments may also be submitted by fax at (304) 625-5388. To ensure proper handling, please reference "NFF Program Qualification Requirements Docket No. 111" on your correspondence. You may view an electronic version of this proposed rule at <http://www.regulations.gov>. You may also comment via electronic mail at [tcommado@leo.gov](mailto:tcommado@leo.gov) or by using the <http://www.regulations.gov> comment form for this regulation. When submitting comments electronically you must include NCPPC Docket No. 111 in the subject box.

**FOR FURTHER INFORMATION CONTACT:** Ms. Donna M. Uzell, Compact Council Chairman, Florida Department of Law Enforcement, P.O. Box 1489, Tallahassee, FL 32302, telephone number (850) 410-7100.

**SUPPLEMENTARY INFORMATION:** This proposed rule requires all Compact Parties to comply with minimum qualification standards while participating in the NFF Program. The standards entitled "National Fingerprint File Qualification Requirements" are published in the Notices section of today's **Federal Register**; hereafter, interested parties should acquire a copy of the most current NFF Qualification Requirements by contacting the Compact Council Office at the address shown above.

**Background**

Compact Article VI establishes a Council which has the authority to

promulgate rules and procedures governing the use of the Interstate Identification Index (III) System for noncriminal justice purposes, not to conflict with the FBI administration of the III System for criminal justice purposes. An integral part of the III System is the National Fingerprint File (NFF), which the Compact defines as "a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III System." The Council believes the promulgation of this rule and its accompanying notice will clarify for current and future NFF Program participants the requirements by which a participant's NFF performance will be measured. The notice related to this proposed rule contains two sets of Qualification Requirements—one applicable to State NFF participants and an analogous set for the FBI's NFF participation. The following paragraphs provide justification for both State and FBI participation in the NFF.

*Party State NFF Participation*

Compact Article III outlines the responsibilities of the Compact Parties. Article III(b)(3) provides that each Compact Party State shall participate in the NFF. *See* 42 U.S.C. 14616, Article III. The Compact does not set out a time line for NFF participation; to date, six Compact Party States participate in the NFF, while an additional ten are in various stages of preparation to join the NFF Program. The FBI Criminal Justice Information Services (CJIS) Division's staff provides training and guidance to criminal history record repository staff as the State prepares for NFF participation.

The CJIS Audit staff will measure a State's performance in the NFF Program using audit criteria that align with the State NFF Qualification Requirements. The Council published a proposed rule on February 17, 2005, establishing sanctions for noncompliance with its rules, procedures, and standards for the noncriminal justice use of the III System. The sanctions process outlined therein will be used by the Council to address noncompliance findings related to the noncriminal justice use of III, while noncompliance findings related to the criminal justice use of III will continue to be addressed by the CJIS Advisory Policy Board (APB).

*FBI NFF Participation*

The FBI CJIS Division has maintained the NFF since its inception in 1991 as a pilot project. The CJIS Division

remains an integral part of the NFF Program which, when fully implemented, will result in a national decentralized criminal history record system. Article II of the Compact requires the FBI to, among other things, permit use of the National Identification Index and the NFF by each Party State. Article II also establishes an obligation for all Compact Parties to adhere to the Compact and the Compact Council's related rules, procedures, and standards.

Compact Article III requires the FBI Director-appointed Compact Officer to ensure the Department of Justice and other agencies and organizations that submit criminal history search requests to the FBI comply with the provisions of the Compact and with the Council's rules, procedures, and standards governing the use of the III System for noncriminal justice purposes. Audit reports of the FBI's criminal history record repository will be provided to the Council, which will use the results to ensure CJIS Division compliance with the FBI NFF Qualification Requirements. (The FBI and its CJIS APB maintain purview over the criminal justice use of the III system. The APB has endorsed the referenced NFF Qualification Requirements and will be consulted in any future revisions.)

**Administrative Procedures and Executive Orders***Administrative Procedure Act*

The Compact Council, composed of 15 members including 11 state and local governmental representatives, is authorized to promulgate rules, procedures, and standards for the effective and proper use of the III System for noncriminal justice purposes. The Compact Council is publishing this rule in compliance with the mandate that rules, procedures, or standards established by the Council be published in the **Federal Register**. *See* 42 U.S.C. 14616, Articles II(4), VI(a)(1), and VI(e). This publication complies with those requirements.

*Executive Order 12866*

The Compact Council is not an executive department or independent regulatory agency as defined in 44 U.S.C. 3502; accordingly, Executive Order 12866 is not applicable.

*Executive Order 13132*

The Compact Council is not an executive department or independent regulatory agency as defined in 44 U.S.C. 3502; accordingly, Executive Order 13132 is not applicable. Nonetheless, this rule fully complies

with the intent that the national government should be deferential to the States when taking action that affects the policymaking discretion of the States.

#### *Executive Order 12988*

The Compact Council is not an executive agency or independent establishment as defined in 5 U.S.C. 105; accordingly, Executive Order 12988 is not applicable.

#### *Unfunded Mandates Reform Act*

Approximately 75 percent of the Compact Council members are representatives of state and local governments; accordingly, rules prescribed by the Compact Council are not Federal mandates. Accordingly, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### *Small Business Regulatory Enforcement Fairness Act of 1996*

The Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801–804) is not applicable to the Council's rule because the Compact Council is not a "Federal agency" as defined by 5 U.S.C. 804(1). Likewise, the reporting requirement of the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act) does not apply. See 5 U.S.C. 804.

#### **List of Subjects in 28 CFR Part 905**

Crime, Privacy, Information, Safety.

Accordingly, title 28 of the Code of Federal Regulations is proposed to be amended by adding Part 905 to read as follows:

#### **PART 905—NATIONAL FINGERPRINT FILE (NFF) PROGRAM QUALIFICATION REQUIREMENTS**

Sec.

905.1 Definition.

905.2 Purpose and authority.

905.3 Participation in the NFF Program.

**Authority:** 42 U.S.C. 14616.

##### **§ 905.1 Definition.**

"National Fingerprint File" means a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III System.

##### **§ 905.2 Purpose and authority.**

The purpose of this part 905 is to require each National Fingerprint File (NFF) participant to meet the standards set forth in the NFF Qualification

Requirements as established by the Compact Council (Council). The Council is established pursuant to the National Crime Prevention and Privacy Compact Act (Compact), title 42, U.S.C., 14616.

##### **§ 905.3 Participation in the NFF Program.**

Each NFF Program participant shall meet the standards set forth in the NFF Qualification Requirements as established by the Council and endorsed by the FBI's Criminal Justice Information Services Advisory Policy Board; however, such standards shall not interfere or conflict with the FBI's administration of the III, including the NFF, for criminal justice purposes. Each participant's performance will be audited and measured by criteria designed to assess compliance with those requirements. Measurements by which to determine compliance to the NFF Qualification Requirements are outlined in the FBI and State Sampling Standards. (For a copy of the standards, contact the FBI Compact Officer, 1000 Custer Hollow Road, Module C-3, Clarksburg, WV 26306-0001.)

Dated: May 12, 2005.

**Donna M. Uzzell,**

*Compact Council Chairman.*

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**BILLING CODE 4410-02-P**

#### **GENERAL SERVICES ADMINISTRATION**

#### **41 CFR Parts 102-117 and 102-118**

[FMR Case 2005-102-4]

RIN 3090-AI11

#### **Federal Management Regulation; Transportation Management and Transportation Payment and Audit—Data Collection Standards and Reporting Requirements**

**AGENCY:** Office of Governmentwide Policy, General Services Administration (GSA).

**ACTION:** Proposed rule.

**SUMMARY:** The General Services Administration is amending the Federal Management Regulation (FMR) by adding specific data collection standards and reporting requirements. The FMR and any corresponding documents may be accessed at GSA's Web site at <http://www.gsa.gov/fmr>.

**DATES:** Comments are due on or before August 22, 2005.

**ADDRESSES:** Submit comments identified by FMR case 2005-102-4 by any of the following methods:

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

- Agency Web Site: <http://www.gsa.gov/fmr>. Click on the FMR case number to submit comments.

- E-mail: [fmr.case.2005-102-4@gsa.gov](mailto:fmr.case.2005-102-4@gsa.gov). Include FMR case 2005-102-4 in the subject line of the message.

- Fax: 202-501-4067.

- Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

*Instructions:* Please submit comments only and cite FMR case 2005-102-4 in all correspondence related to this case. All comments received will be posted without change to <http://www.gsa.gov/fmr>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** The Regulatory Secretariat, Room 4035, GS Building, Washington, DC, 20405, at (202) 208-7312 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Elizabeth Allison, Office of Governmentwide Policy, Transportation Management Policy Division, at (202) 219-1792 or e-mail at [elizabeth.allison@gsa.gov](mailto:elizabeth.allison@gsa.gov). Please cite FMR case 2005-102-4.

#### **SUPPLEMENTARY INFORMATION:**

##### **A. Background**

Part 102-117 of the Federal Management Regulation (FMR) (41 CFR part 102-117, Transportation Management), currently states that there is no requirement for reporting on agency transportation activities. Over the past several years, the General Services Administration (GSA) has worked with the Governmentwide Transportation Policy Council (GTPC) interagency working group to develop standards for transportation data collection.

GSA and its partner agencies determined that better information about agency transportation services would provide critical input for more informed decision making. Transportation is often viewed as support for other essential activities, and data is often not accorded high visibility or priority in determining budget allocations. The data necessary to facilitate sound transportation policy making are seriously inadequate, and the organization of data collection activities in the agencies is not conducive to providing them. The decentralized programs of the agencies, although appropriate to the missions of the operating administrations, are not