

“(16) If the offense involved fraud or theft involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with a declaration of a major disaster or an emergency, increase by 2 levels.”.

The Commentary to § 2B1.1 captioned “Application Notes” is amended in Note 3 by inserting after the paragraph that begins “(III) Offenses Under 18 U.S.C. 1030.—” the following:

“(IV) *Disaster Fraud Cases*.—In a case in which subsection (b)(16) applies, reasonably foreseeable pecuniary harm includes the administrative costs to any federal, state, or local government entity or any commercial or not-for-profit entity of recovering the benefit from any recipient thereof who obtained the benefit through fraud or was otherwise ineligible for the benefit that were reasonably foreseeable.”.

The Commentary to § 2B1.1 captioned “Application Notes” is amended by redesignating Notes 15 through 19 as Notes 16 through 20, respectively; and by inserting after Note 14 the following:

“15. Application of Subsection (b)(16).—

(A) Definitions.—For purposes of this subsection:

‘Emergency’ has the meaning given that term in 42 U.S.C. 5122.”.

‘Major disaster’ has the meaning given that term in 42 U.S.C. 5122.

The Commentary to § 2B1.1 captioned “Background” is amended by adding at the end the following:

“Subsection (b)(16) implements the directive in section 5 of Public Law 110–179.”.

Appendix A (Statutory Index) is amended by inserting after the line reference to 18 U.S.C. 1039 the following:

“18 U.S.C. 1040 2B1.1”.

*Reason for Amendment:* This amendment implements the emergency directive in section 5 of the Emergency and Disaster Assistance Fraud Penalty Enhancement Act of 2007, Public Law 110–179. The directive, which requires the Commission to promulgate an amendment under emergency amendment authority by February 6, 2008, directs that the Commission forthwith shall—promulgate sentencing guidelines or amend existing sentencing guidelines to provide for increased penalties for persons convicted of fraud or theft offenses in connection with a major disaster declaration under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) or an emergency declaration under section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191) \* \* \*.

Section 5(b) of the Act further requires the Commission to—

(1) Ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses described in subsection (a) and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) Assure reasonable consistency with other relevant directives and with other guidelines;

(3) Account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements;

(4) Make any necessary conforming changes to the sentencing guidelines; and

(5) Assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

The amendment addresses the directive by creating a two-level enhancement that applies if the offense involved fraud or theft in connection with a declaration of a major disaster or emergency, as those terms are defined in 42 U.S.C. § 5122. In addition, the amendment modifies Application Note 3 to provide that for purposes of determining loss under subsection (b)(1), reasonably foreseeable pecuniary harm includes certain administrative costs in such cases.

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## SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2006–0096]

### Social Security Ruling (SSR) 94–4p; Rescission of SSR 94–4p, Policy Interpretation Ruling; Title II of Social Security Act and Title IV of the Federal Mine Safety and Health Act of 1977: Waiver of Recovery of Overpayments—Notice of Appeal and Waiver Rights—Right to a Pre-Recoupment Oral Hearing Before Waiver Can Be Denied

**AGENCY:** Social Security Administration.

**ACTION:** Notice; correction.

**SUMMARY:** This document contains a correction to the notice of rescission of SSR 94–4p that was published in the **Federal Register** on January 11, 2008 (73 FR 2074). The effective date shown in one place in that notice was incorrect.

**FOR FURTHER INFORMATION CONTACT:** Robin Strauss, Social Insurance Specialist, Social Security Administration, Office of Income

Security Programs, 252 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–7944 for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

**SUPPLEMENTARY INFORMATION:** The notice of rescission of SSR 94–4p that was published on January 11, 2008 (73 FR 2074) shows January 11, 2008 as the effective date in one place and February 11, 2008 in another place. However, this rescission was intended to be coordinated with the effective date of final rules that were also published on January 11, 2008 (73 FR 1970). The effective date of the final rules is February 11, 2008. Therefore, the effective date of the notice of rescission of SSR 94–4p is also February 11, 2008, and SSR 94–4p is obsolete and rescinded as of February 11, 2008.

Dated: January 14, 2008.

**Paul Kryglik,**

*Acting Social Security Regulations Officer.*

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## DEPARTMENT OF STATE

[Public Notice: 6065]

### 60-Day Notice of Proposed Information Collection: Agency Form DS–4127, NEA/PI Online Performance Reporting System (PRS), OMB Control Number 1405–XXXX

**ACTION:** Notice of request for public comments.

**SUMMARY:** The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

• *Title of Information Collection:* NEA/PI Online Performance Reporting System (PRS).

- *OMB Control Number:* none.
- *Type of Request:* New collection.
- *Originating Office:* NEA/PI.
- *Form Number:* DS–4127.
- *Respondents:* Recipients of NEA/PI grants.

• *Estimated Number of Respondents:* 70 respondents annually.

• *Estimated Number of Responses:* 280 per year.