

# CRS Report for Congress

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## **Presidential Appointments to Full-Time Positions on Regulatory and Other Collegial Boards and Commissions, 108<sup>th</sup> Congress**

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# Presidential Appointments to Full-Time Positions on Regulatory and Other Collegial Boards and Commissions, 108<sup>th</sup> Congress

## Summary

During the 108<sup>th</sup> Congress, President George W. Bush submitted nominations to the Senate for 77 of the 153 full-time positions on 34 regulatory and other boards and commissions that have such positions. A total of 102 nominations were submitted for these positions, of which 72 were confirmed, 6 were withdrawn, and 24 were returned to the President. The number of nominations exceeds the number of positions because the President submitted multiple nominations for some positions. In some cases, for example, the President submitted one nomination for the end of a term in progress and a second nomination of the same person to the same position for the succeeding term. In other cases, the President submitted a second nomination after his first choice failed to be confirmed. The President also usually submits an “extra” nomination of an individual to whom he has given a recess appointment in order to comply with a law affecting the payment of that appointee. President Bush made 15 appointments to regulatory and other boards and commissions when the Senate was adjourned during a session (known as intrasession recess appointments) and 2 other appointments between sessions (known as intersession recess appointments). At the end of the Congress, 15 incumbents were serving past the expiration of their terms. In addition, there were 12 vacancies among the 153 positions. For 3 of these 12 vacancies — one at the National Labor Relations Board and two at the Nuclear Regulatory Commission — the President had submitted nominations during the 108<sup>th</sup> Congress that were not confirmed by its end.

This report provides an overview of the process for filling positions to which the President makes appointments with the advice and consent of the Senate. It also specifies, for the 108<sup>th</sup> Congress, all nominations to full-time positions on 34 regulatory and other collegial boards and commissions. Profiles of each board and commission provide information on their organizational structures, membership as of December 8, 2004, and appointment activity during that Congress. The organizational section discusses the statutory requirements for the appointed positions, including the number of members on each board or commission, their terms of office, whether or not they may continue in their positions after their terms expire, whether or not political balance is required, and the method for selection of the chair. Membership and appointment activity are provided in tabular form. The report also includes tables summarizing the collective appointment activity for all 34 bodies, and identifying Senate recesses during the 108<sup>th</sup> Congress.

Information for this report was compiled from data from the Senate nominations database of the Legislative Information System at [<http://www.congress.gov/nomis/>], telephone discussions with agency officials, agency websites, the *United States Code*, and the 2004 edition of *United States Government Policy and Supporting Positions* (more commonly known as the *Plum Book*).

This report will not be updated.

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# Presidential Appointments to Full-Time Positions on Regulatory and Other Collegial Boards and Commissions, 108<sup>th</sup> Congress

## Introduction

This report provides an overview of the process for filling positions to which the President makes appointments with the advice and consent of the Senate (PAS positions). It also specifies, for the 108<sup>th</sup> Congress, all nominations to full-time positions on 34 regulatory and other collegial boards and commissions that have such positions (e.g., Consumer Product Safety Commission, Federal Reserve Board, Election Assistance Commission). Profiles of each board and commission provide information on their organizational structures, membership as of the end of the 108<sup>th</sup> Congress, and appointment activity during that Congress.

## The Appointment Process for PAS Positions

The President and the Senate share the power to appoint the principal officers of the United States.<sup>1</sup> The Constitution (Article II, Section 2, clause 2) empowers the President to nominate and, by and with the advice and consent of the Senate, to appoint the principal officers of the United States.<sup>2</sup> Three distinct stages mark the appointment process: selection, clearance, and nomination by the President; consideration by the Senate, and appointment by the President.

**Selection, Clearance, and Nomination.** In this stage, the White House selects and clears a nominee before sending the formal nomination to the Senate. There are a number of steps in this stage of the process for most Senate-confirmed positions. First, with the assistance of, and preliminary vetting by, the White House Office of Presidential Personnel, the President selects a candidate for the position. Interested parties, including Members of Congress, may have input during this process. Most boards and commissions require a political balance among their members (i.e., no more than a simple majority may be from the same political party), so the President normally negotiates over nominations with leaders of the opposition

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<sup>1</sup>A succinct historical and contemporary overview of the appointment power is found in (name redacted), “Appointment Powers,” in his *Constitutional Conflicts between Congress and the President*, 4<sup>th</sup> ed. (Lawrence, KS: University Press of Kansas, 1997), pp. 22-48.

<sup>2</sup>Article II, Sec. 2, cl. 2, provides that the President “shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.”

party in Congress. These negotiations involve questions not only of patronage but of policy, especially when the board or commission is involved in areas that, at the time, may be particularly sensitive. This often results in a packaging process in which the President submits several nominations together for positions in a particular agency and the Senate then confirms them as a group. Sometimes, however, only one or two nominations are submitted when three or four positions may be available. When this occurs, a nomination may remain before the Senate for many months, until one or two additional nominations are submitted. Generally, all are then quickly confirmed.

During the clearance process, the candidate prepares and submits several forms: the “Public Financial Disclosure Report” (Standard Form (SF) 278), the “Questionnaire for National Security Positions” (SF 86), and the White House “Personal Data Statement Questionnaire.” The Office of the Counsel to the President oversees the clearance process, which often includes background investigations conducted by the Federal Bureau of Investigation (FBI), the Internal Revenue Service (IRS), the Office of Government Ethics (OGE), and an ethics official for the agency to which the candidate is to be appointed. If conflicts are found during the background check, OGE and the agency ethics officer may work with the candidate to mitigate the conflicts. Once the Office of the Counsel to the President has cleared the candidate, the nomination is ready to be submitted to the Senate.

The selection and clearance stage is often the longest part of the appointment process. There can be lengthy delays, particularly if many candidates are being processed, as they are at the beginning of an Administration, or if conflicts need to be resolved. Candidates for higher-level positions are often accorded priority in this process. In an effort to reduce the elapsed time between a new President’s inauguration and the appointment of his or her national security team, recent amendments to the Presidential Transitions Act of 1963<sup>3</sup> encourage Presidents-elect to submit, for security clearance, potential nominees to high-level national security positions as soon as possible after the election.<sup>4</sup>

For positions located within a state (U.S. attorney, U.S. marshal, and U.S. district judge), the President, by custom, normally nominates an individual recommended by the Senator or Senators (if they are from the same party as the President) from that state. If neither Senator is from the President’s party, he usually defers to the recommendations of party leaders from the state. Occasionally, the President solicits recommendations from Senators of the opposition party because of their positions in the Senate. Before making a nomination to a federal position at the state or national level, the President must consider how it will fare in the confirmation process.

A nominee has no legal authority to assume the duties and responsibilities of the position; the authority comes with Senate confirmation and presidential appointment. A nominee who is hired by the agency as a consultant while awaiting confirmation may serve only in an advisory capacity. If circumstances permit and conditions are met, the President may give the nominee a recess appointment to the position (see

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<sup>3</sup>3 U.S.C. 102 note.

<sup>4</sup>P.L. 108-458, § 7601.

below). Recess appointments may have political consequences, however, particularly if Senators perceive that an appointment is an effort to circumvent their constitutional role. Some Senate-confirmed positions, such as many of those in the executive departments, may also be temporarily filled under the Vacancies Act.<sup>5</sup> Positions on most boards and commissions, however, are not covered by this act.<sup>6</sup>

**Senate Consideration.** In the confirmation or second stage, the Senate alone determines whether or not to confirm a nomination.<sup>7</sup> The way the Senate acts on a nomination depends largely on the importance of the position involved, existing political circumstances, and policy implications. Generally, the Senate shows particular interest in the nominees' views and how they are likely to affect public policy.<sup>8</sup> Two other factors may also affect the scrutiny with which a nominee's personal and professional qualities are examined: whether or not the President's party controls the Senate and the degree to which the President becomes involved in supporting the nomination.

The Senate confirmation process is centered at the committee level. Committee nomination activity generally includes investigation, hearing, and reporting stages. As part of investigatory work, committees may draw on information provided by the White House as well as information collected by the committees. Hearings provide a public forum to discuss a nomination and any issues related to the program or agency for which the nominee would be responsible. Even if confirmation is thought to be a virtual certainty, hearings may provide Senators and the nominee with an opportunity to go on the record with particular views or commitments. Senators may use hearings to explore a nominee's qualifications, articulate a policy perspective, or raise related oversight issues. Some committees hold hearings on nearly all nominations; others hold hearings for only some.

The committee may discontinue acting on a nomination at any point — upon referral, after investigation, or after a hearing. If the committee votes to report the nomination back to the full Senate, it has three options: it may report the nomination to the Senate favorably, report it unfavorably, or report it without recommendation. If the committee elects not to report a nomination, the Senate may, under certain circumstances, discharge the committee from further consideration of the nomination in order to bring it to the floor.<sup>9</sup>

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<sup>5</sup>P.L. 105-277, Div. C, Title I, sec. 151; 5 U.S.C. 3345-3349d. For more on the Vacancies Act, see CRS Report 98-892, *The New Vacancies Act: Congress Acts to Protect the Senate's Confirmation Prerogative*, by (name redacted).

<sup>6</sup>5 U.S.C. 3349c.

<sup>7</sup>For further information, see CRS Report RL31980, *Senate Consideration of Presidential Nominations: Committee and Floor Procedure*, by (name redacted), and CRS Report RL31948, *Evolution of the Senate's Role in the Nomination and Confirmation Process: A Brief History*, by (name redacted).

<sup>8</sup>G. Calvin Mackenzie, *The Politics of Presidential Appointments* (New York: The Free Press, 1981), pp. 97-189.

<sup>9</sup>For more information, see CRS Report RL31980, *Senate Consideration of Presidential* (continued...)

Although the Senate confirms most nominations, some nominations are not confirmed. Rarely, however, does a rejection occur on the Senate floor. Nearly all rejections occur in committee, either by committee vote or by committee inaction. Rejections in committee occur for a variety of reasons, including opposition to the nomination, inadequate amount of time for consideration of the nomination, or factors that may have nothing to do with the merits of the nomination. If a nomination is not acted upon by the Senate by the end of a Congress, it is returned to the President. Pending nominations also may be returned automatically to the President at the beginning of a recess of 30 days or longer, but the Senate rule providing for this return is often waived.<sup>10</sup>

**Appointment.** In the final stage, the confirmed nominee is given a commission signed by the President, with the seal of the United States affixed thereto, and is sworn into office. The President may sign the commission at any time after confirmation. Once the appointee is given the commission and sworn in, he or she has full authority to carry out the responsibilities of the office.

## Recess Appointments

The Constitution also empowers the President to make limited-term appointments without Senate confirmation when the Senate is in recess.<sup>11</sup> Such recess appointments expire at the end of the next session of Congress. Appendix C provides a table showing the dates of the Senate recesses for the 108<sup>th</sup> Congress and the number of recess appointments during each recess.

Presidents have occasionally used the recess appointment power to circumvent the confirmation process. In response, Congress has placed restrictions on the President's authority to make a recess appointment. Under 5 U.S.C. 5503(a), if the position to which the President makes a recess appointment falls vacant while the Senate is in session, the recess appointee may not be paid from the Treasury until he or she is confirmed by the Senate. The salary prohibition does not apply (1) if the vacancy arose within 30 days before the end of the session; (2) if a nomination for the office (other than the nomination of someone given a recess appointment during the preceding recess) was pending when the Senate recessed; or (3) if a nomination was rejected within 30 days before the end of the session and another individual was given the recess appointment. A recess appointment falling under any one of these three exceptions must be followed by a nomination to the position not later than 40 days after the beginning of the next session of the Senate. For this reason, when a recess appointment is made, the President generally submits a new nomination for

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<sup>9</sup>(...continued)

*Nominations: Committee and Floor Procedure*, by (name redacted), p. 7.

<sup>10</sup>The rule may be found in U.S. Congress, Senate Committee on Rules and Administration, *Senate Manual*, 107<sup>th</sup> Cong., 1<sup>st</sup> sess., S. Doc. 107-1 (Washington: GPO, 2002), p. 55, Rule XXXI, paragraph 6 of the Standing Rules of the Senate. For an example of a waiver of the rule, see Sen. John E. Sununu, "Nomination in Status Quo," *Congressional Record*, daily edition, vol. 149, July 31, 2003, p. S10844.

<sup>11</sup>Art. II, Sec. 2, cl. 3.



the nominee even when an old nomination is pending.<sup>12</sup> In addition, although recess appointees whose nominations to a full term are subsequently rejected by the Senate may continue to serve until the end of their recess appointment, a provision of the annual Treasury and General Government Appropriations Act may prevent them from being paid after their rejection.<sup>13</sup>

## Characterization of Regulatory and Other Collegial Bodies

Federal executive branch boards and commissions share, among other things, the following characteristics: (1) they are independent executive branch bodies located, with four exceptions, outside executive departments;<sup>14</sup> (2) several members head each entity; (3) the members are appointed by the President with the advice and consent of the Senate; and (4) the members serve fixed terms of office, and, except in a few bodies, the President's power to remove them is restricted.

A new commission or board member may be nominated and confirmed for a position from which someone has resigned (or died) with an unexpired term or for a position with a new term that is already underway. Occasionally, if the unexpired term is for a very short period, the President submits two nominations of the same person simultaneously — the first to complete the unexpired term and the second to complete a regular term of office.

On some commissions, the chair is subject to Senate confirmation and must be appointed from among the incumbent commissioners. If the President wishes to appoint, as chair, someone who is not on the commission, two nominations are submitted simultaneously for the nominee — one for member and the other for chair.

As independent entities with staggered membership, executive branch boards and commissions have more political independence from the President than do executive departments. Nonetheless, the President can sometimes exercise significant influence over the composition of the membership when he designates the chair or has the opportunity to fill a number of vacancies at once. For example,

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<sup>12</sup>For a further information, see CRS Report RS21308, *Recess Appointments: Frequently Asked Questions*, by (name redacted).

<sup>13</sup>P.L. 108-447, Division H, Sec. 609. The provision reads: “No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.” This provision has been part of this funding bill since at least 1950.

<sup>14</sup>Exceptions include the Federal Energy Regulatory Commission (FERC), located in the Department of Energy (DOE); the Foreign Claims Settlement Commission (FCSC) and the United States Parole Commission (USPC), both located in the Department of Justice (DOJ); and the Surface Transportation Board (STB), located in the Department of Transportation (DOT). The FERC's enabling statute designates it as an independent entity in DOE. The FCSC is designated as an independent entity within DOJ, with a specific provision that decisions of the commission shall not be subject to review by the Attorney General. The enabling statutes of the STB and the USPC state only that they are located within their respective departments.

President George W. Bush had the opportunity to shape the Securities and Exchange Commission during the first two years of his presidency because of existing vacancies, resignations, and the death of a member. Likewise, during the same time period, President Bush was able to submit nominations for all of the positions on the National Labor Relations Board because of existing vacancies, expiring recess appointments, and resignations. Simultaneous turnover of board or commission membership may sometimes result from coincidence. It may also sometimes be the result of a buildup of vacancies after extended periods during which the President fails to nominate, or the Senate fails to confirm, members.

Two other notable characteristics apply to appointments to some of the boards and commissions. First, for 25 of the regulatory and other collegial boards and commissions, the law limits the number of appointed members who may belong to the same political party, usually to no more than a simple majority of the appointed members (e.g., two of three, or three of five).<sup>15</sup> Second, advice and consent requirements also apply to inspector general appointments in five of these organizations and general counsel appointments in three.

## Appointments During the 108<sup>th</sup> Congress

During the 108<sup>th</sup> Congress, President George W. Bush submitted nominations to the Senate for 77 of the 153 full-time positions on 34 regulatory and other boards and commissions. (Most of the remaining positions were not vacant during that time.) A total of 102 nominations were submitted for these positions, of which 72 were confirmed, 6 were withdrawn, and 24 were returned to the President. The number of nominations exceeds the number of positions because the President submitted multiple nominations for some positions. In some cases, for example, the President submitted one nomination for the end of a term in progress and a second nomination of the same person to the same position for the succeeding term. In other cases, the President submitted a second nomination after his first choice failed to be confirmed. The President also usually submits an “extra” nomination of an individual to whom he has given a recess appointment in order to comply with a law affecting the payment of that appointee. President Bush made 15 appointments to regulatory and other boards and commissions when the Senate was adjourned during a session (known as intrasession recess appointments) and 2 other appointments between sessions (known as intersession recess appointments). **Table 1** summarizes the appointment activity for the 108<sup>th</sup> Congress. At the end of the Congress, 15 incumbents were serving past the expiration of their terms. In addition, there were 12 vacancies among the 153 positions. For 3 of these 12 vacancies — one at the National Labor Relations Board and two at the Nuclear Regulatory Commission — the President had submitted nominations during the 108<sup>th</sup> Congress that were not confirmed by its end.

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<sup>15</sup>For 3 of these 25 organizations, the Election Assistance Commission, the Federal Election Commission, and the United States International Trade Commission, the number of member positions is even, and no more than half may be of the same party.

**Table 1. Appointment Action for 34 Regulatory and Other Boards and Commissions During the 108<sup>th</sup> Congress**

<b>Positions on the 34 boards and commissions (total)</b>	<b>153</b>
Positions to which nominations were made	77
Individual nominees	75
<b>Nominations submitted to the Senate during the 108<sup>th</sup> Congress (total)</b>	<b>102</b>
Disposition of nominations	
Confirmed by the Senate	72
Withdrawn	6
Returned (total)	24
Beginning of the August 2003 recess	0
End of the 1 <sup>st</sup> session of the 108 <sup>th</sup> Congress	5
Beginning of the August 2004 recess	2
End of the 2 <sup>nd</sup> session of the 108 <sup>th</sup> Congress	17
<b>Recess Appointments (total)</b>	<b>17</b>
Intrasession	15
Intersession	2

### Average Time to Confirm a Nomination

The average time the Senate took to confirm a nomination to a regulatory or other collegial board or commission, as well as the average time the President took to submit a nomination after a term expired or a vacancy occurred, may not be as meaningful when considering boards or commissions as it is when considering executive departments and single-head independent agencies. Nearly all positions on boards and commissions are for a fixed term of office, and when a term expires, the incumbent is usually permitted to remain in office until he or she is replaced by a successor. Moreover, a nomination is frequently submitted before an incumbent's term expires. Consequently, the time taken to confirm a nomination generally is not as crucial for independent regulatory boards and commissions as it is for executive departments and single-head independent agencies, where a nomination is generally made to a position that is vacant.

The length of time a given nomination may be pending in the Senate varies widely. Some nominations are confirmed within a few days, others may not be confirmed for several months, and some are never confirmed. This report provides, for each board or commission nomination that was confirmed in the 108<sup>th</sup> Congress, the number of days between nomination and confirmation ("days to confirm"). These counts exclude days during August recesses and between sessions of the Congress. This cutoff point is suggested by the Senate rules, which provide that "if the Senate shall adjourn or take recess for more than thirty days, all nominations pending and not finally acted upon" shall be returned to the President, although this rule is often waived.<sup>16</sup> The 31 days during the August 2003 recess, the 41 days between the first

<sup>16</sup>U.S. Congress, Senate Committee on Rules and Administration, *Senate Manual*, 107<sup>th</sup> (continued...)

and second sessions of the 108<sup>th</sup> Congress, and the 46 days during the August 2004 recess were subtracted from the “days to confirm” for those nominations that spanned one or more recesses. Although it also exceeded 30 days, no days were subtracted for a 35-day recess during October and November 2004 in order to maintain consistency with similar reports for previous Congresses.

## Organization of the Report

**Board and Commission Profiles.** Each of the 34 board or commission profiles following the narrative portion of this report is organized into three parts: a paragraph discussing the body’s organizational structure; a table identifying its membership as of December 8, 2004;<sup>17</sup> and a table listing nominations and appointments to its positions during the 108<sup>th</sup> Congress. The organizational sections discuss the statutory requirements for the appointed positions, including the number of members on each board or commission, their terms of office, whether or not they may continue in their positions after their terms expire, whether or not political balance is required, and the method for selection of the chair.

Data<sup>18</sup> on appointment actions during the 108<sup>th</sup> Congress appear under both the sections entitled “Membership as of December 8, 2004” and those entitled “Appointment Action.” The former identifies the agency’s positions requiring Senate confirmation and the incumbents in those positions as of the date specified. Incumbents whose terms have expired are italicized. Most of the incumbents serve fixed terms of office and are removable only for specified causes. They generally remain in office when a new administration assumes office following a presidential election. For those agencies requiring political balance among their members, the party affiliation of an incumbent is listed as Democrat (D), Republican (R), or Independent (I). The section also includes the pay levels of the positions. For presidentially appointed positions requiring Senate confirmation, the pay levels fall under the Executive Schedule, which ranges from level I, for cabinet-level offices, to level V, for the lowest-ranked positions. Most of the chair positions are at level III (\$149,200), and most of the other positions are at level IV (\$140,300).<sup>19</sup>

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<sup>16</sup>(...continued)

Cong., 1<sup>st</sup> sess., S.Doc. 107-1 (Washington: GPO, 2002), p. 55, Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

<sup>17</sup>In a few cases, this information is provided for a later date in December because of significant changes to the membership after Dec. 8.

<sup>18</sup>This report was compiled from data from the Senate nominations database of the Legislative Information System [<http://www.congress.gov/nomis/>], telephone discussions with agency officials, agency websites, the *United States Code*, and the “Plum Book” (U.S. Congress, House Committee on Government Reform, *United States Government Policy and Supporting Positions*, 108<sup>th</sup> Cong., 2<sup>nd</sup> sess., Committee Print, Nov. 22, 2004 (Washington: GPO, 2004)).

<sup>19</sup>U.S. Office of Personnel Management “Salary Table 2005-EX,” available at [<http://www.opm.gov/oca/05tables/html/ex.asp>], visited Jan. 13, 2005.

The “Appointment Action” section identifies the nominees (in chronological order), the positions to which they were nominated, the dates of nomination, the dates of confirmation, and the number of days taken for confirmation. Actions other than confirmation (i.e., nominations rejected by the Senate, nominations returned to or withdrawn by the President, and recess appointments) are also noted. Occasionally, when a position is vacant and the unexpired term of office ends within a number of weeks or months, two nominations for the same nominee are submitted, the first to complete the unexpired term, and the second for a full term following completion of the expired term. Also, when a nominee is awaiting Senate action and he or she is given a recess appointment, a second, follow-up nomination is usually submitted to comply with the requirements of 5 U.S.C. 5503(b).

In tables that show more than one confirmed nomination, the mean number of days to confirm a nomination is provided. This figure is determined by calculating the number of days between the nomination and confirmation dates, adding these numbers for all confirmed nominations, and dividing the result by the number of nominations confirmed. For tables in which one individual was confirmed more than once (to be a chair and a member, for example), the mean was calculated by averaging all values in the “Days to confirm” column, including the values for both confirmations.

**Additional Appointment Information.** Appendix A presents a table of all appointees, alphabetically organized, and following a similar format to that of the “Appointment Action” sections just discussed. It identifies the organization involved and the dates of nomination and confirmation. The table also indicates if a nomination was withdrawn, returned, or rejected, or if a recess appointment was made. The mean number of days taken to confirm a nomination is calculated as described above. The table also shows the median, which is the middle number when the “days to confirm” data for all the confirmed nominations are arranged in numerical order.

Appendix B provides a table with summary information on appointments and nominations by organization. For each of the 34 independent boards and commissions discussed in this report, the table provides the number of positions, vacancies, incumbents whose term has expired, nominations, individual nominees, positions to which nominations were made, confirmations, nominations returned to the President, nominations withdrawn, and recess appointments.

Appendix C provides a table showing the dates of Senate adjournments during the 108<sup>th</sup> Congress and the number of recess appointments during each period of adjournment. A list of organization abbreviations can be found in Appendix D.

## Chemical Safety and Hazard Investigation Board (CSHIB)

The CSHIB is an independent agency consisting of five members (no political balance is required) who serve five-year terms. The chair is subject to confirmation by the Senate. When a term expires, the incumbent must leave office. (42 U.S.C. 7412(r)(6))

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
Carolyn W. Merritt	na	08/01/02	08/01/07	IV	Chair
Gary L. Visscher	na	11/21/04	11/29/09	IV	
John S. Bresland	na	08/01/02	08/01/07	IV	
Vacant			5 years	IV	
Vacant			5 years	IV	

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
Rixio E. Medina <sup>a</sup>	na	Member	06/25/03	12/09/03	136
Gary L. Visscher	na	Member	10/14/03	11/21/04	317
Gary L. Visscher	na	Member	Recess Appointment 08/02/04 <sup>b</sup>		
Gary L. Visscher	na	Member	09/10/04	Returned 12/08/04 <sup>c</sup>	
<b>Mean number of days to confirm a nomination</b>					<b>227</b>

na - not applicable

<sup>a</sup> Medina resigned from office on August 23, 2004.

<sup>b</sup> Visscher's recess appointment would have expired at the end of the first session of the 109<sup>th</sup> Congress.

<sup>c</sup> When a recess appointment is made, the President generally submits a new nomination for the nominee, even when an old nomination is pending, in compliance with 5 U.S.C. 5503. In this case, the first nomination was acted upon, and the second, "duplicate" nomination was returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

## Commodity Futures Trading Commission (CFTC)

The CFTC consists of five members (no more than three may be from the same political party) who serve five-year terms. At the end of a term, a member may remain in office until the end of the next session of Congress. The chair is also appointed by the President, with the advice and consent of the Senate. (7 U.S.C. 2(a)(2))

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
Sharon Brown-Hruska	R	08/01/02	04/13/09	III	Acting Chair <sup>a</sup> ; Reappointed
Michael V. Dunn	D	11/21/04	06/19/06	IV	
Frederick W. Hatfield	D	11/21/04	04/13/08	IV	
Walter Lukken	R	08/01/02	04/13/05	IV	
Vacant			04/13/07	IV	

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
Sharon Brown-Hruska	R	Commissioner	07/22/04	11/21/04	76
Frederick W. Hatfield	D	Commissioner	10/07/04	11/21/04	45
Michael V. Dunn	D	Commissioner	11/16/04	11/21/04	5
<b>Mean number of days to confirm a nomination</b>					<b>61</b>

<sup>a</sup> The President designated Brown-Hruska as the acting chair under a commission rule that has been in effect for some 26 years. According to information provided on its website, the commission has been led by an acting chair on at least nine other occasions during that time ([<http://www.cftc.gov/opa/opaterms.htm>], visited Jan. 15, 2005). The rule provides that “At any time that a vacancy exists in the position of Chairman of the Commission the remaining members of the Commission shall elect a member to serve as acting Chairman ... until a new chairman has been appointed by the President and confirmed by the Senate: *Provided, however,* That if the President shall appoint a new Chairman from among the existing members of the Commission, that Commissioner shall serve as acting Chairman for these purposes until such time as his appointment as Chairman has been confirmed or rejected by the Senate.” (17 CFR 140.13) It is unclear what specific statutory authority would support a rule that permits the President to make a temporary appointment to an advice and consent position on this commission. Absent such specific statutory authority, it is unclear what general legal authority would allow for such an appointment. The sole statutory authority for such appointments governmentwide is the Federal Vacancies Reform Act of 1998, which would probably not apply to this commission since it does not apply to “any board, commission, or similar entity that ... is composed of multiple members” and “governs an independent establishment or Government corporation” (5 U.S.C. 3349c(1)).

## Consumer Product Safety Commission (CPSC)

The statute establishing the CPSC calls for five members, but funding is authorized for only three members, who serve seven-year terms. No more than a simple majority of the members may be from the same political party. At the end of a term, a member may remain in office for one year. The chair is also appointed by the President, with the advice and consent of the Senate. (15 U.S.C. 2053)

### Membership as of December 8, 2004<sup>a</sup>

<b>Incumbent</b>	<b>Party</b>	<b>Date first confirmed</b>	<b>Term expires</b>	<b>Pay level</b>	<b>Comments</b>
Harold D. Stratton, Jr.	R	07/25/02	10/26/06	III	Chair
Thomas H. Moore	D	04/06/95	10/26/10	IV	Reappointed, Vice Chair
Vacant			10/26/05	IV	

### Appointment Action in the 108<sup>th</sup> Congress

<b>Nominee</b>	<b>Party</b>	<b>Position</b>	<b>Date nominated</b>	<b>Date confirmed</b>	<b>Days to confirm</b>
Thomas H. Moore	D	Commissioner	03/11/04	Withdrawn	03/23/04
Thomas H. Moore	D	Commissioner	03/23/04	05/21/04	59
<b>Mean number of days to confirm a nomination</b>					<b>59</b>

<sup>a</sup> Two vacant positions are not listed because, since FY1993, funds have not been made available for the compensation and benefits of more than three members of the commission (P.L. 102-389, Title 3, Oct. 6, 1992; 105 Stat. 1596; 15 U.S.C. 2053 note).



## Defense Nuclear Facilities Safety Board (DNFSB)

The DNFSB consists of five members (no more than three may be from the same political party) who serve five-year terms. After a term expires, a member may continue to serve until a successor takes office. The President designates the chair and vice chair. (42 U.S.C. 2286)

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
<i>John T. Conway</i> <sup>a</sup>	D	09/29/95	10/18/99	III	Chair
<i>Andrew J. Eggenberger</i> <sup>a</sup>	R	10/29/99	10/18/03	III	Vice Chair
Joseph F. Bader	<sup>b</sup>	11/21/04	10/18/07	III	
R. Bruce Matthews	<sup>b</sup>	11/21/04	10/18/05	III	
John E. Mansfield	R	08/01/02	10/18/06	III	

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
R. Bruce Matthews	<sup>b</sup>	Member	01/09/03	Returned 12/08/04 <sup>c</sup>	
R. Bruce Matthews	<sup>b</sup>	Member	Recess Appointment 04/22/03 <sup>d</sup>		
R. Bruce Matthews	<sup>b</sup>	Member	05/14/03	11/21/04	439
Joseph F. Bader	<sup>b</sup>	Member	05/11/04	11/21/04	148
<b>Mean number of days to confirm a nomination</b>					<b>294</b>

<sup>a</sup> The terms of the incumbents shown in italics have expired.

<sup>b</sup> Party affiliation for Matthews and Bader is not available.

<sup>c</sup> When a recess appointment is made, the President generally submits a new nomination for the nominee, even when an old nomination is pending, in compliance with 5 U.S.C. 5503. In this case, this second nomination was acted upon, and the first, "duplicate" nomination was returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

<sup>d</sup> Matthews' recess appointment expired at the end of the 108<sup>th</sup> Congress, by which time his nomination had been confirmed by the Senate, as shown.

## Election Assistance Commission (EAC)

The EAC is a new independent commission established by P.L. 107-252 (116 Stat. 1666), the Help America Vote Act of 2002 (HAVA). It consists of four members (no more than two may be from the same political party) who serve four-year terms. The initial appointees (listed below) are serving staggered terms — two have two-year terms and two have four-year terms. After a term expires, a member may continue to serve until a successor takes office. The chair and vice chair, from different political parties and designated by the commission, change each year. (42 U.S.C. 15323)

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
DeForest B. Soaries, Jr.	R	12/09/03	12/12/07	IV	Chair; <sup>a</sup> initial 4-year term
Gracia M. Hillman <sup>a</sup>	D	12/09/03	12/12/05	IV	Vice Chair; <sup>b</sup> initial 2-year term
Paul S. DeGregorio <sup>b</sup>	R	12/09/03	12/12/05	IV	initial 2-year term
Raymundo Martinez, III	D	10/03/03	12/12/07	IV	initial 4-year term

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
Paul S. DeGregorio	R	Member	10/03/03	12/09/03	67
Gracia M. Hillman	D	Member	10/03/03	12/09/03	67
Raymundo Martinez, III	D	Member	10/03/03	12/09/03	67
DeForest B. Soaries, Jr.	R	Member	10/03/03	12/09/03	67
<b>Mean number of days to confirm a nomination</b>					<b>67</b>

<sup>a</sup> Hillman was designated Chair on 01/03/05.

<sup>b</sup> DeGregorio was designated Vice-Chair on 01/03/05.

## Equal Employment Opportunity Commission (EEOC)

The EEOC consists of five members (no more than three may be from the same political party) who serve five-year terms. An incumbent whose term has expired may continue to serve until a successor is appointed, except that no such member may continue to serve (1) for more than 60 days when Congress is in session, unless a successor has been nominated; or (2) after the adjournment of the session of the Senate in which the nomination was submitted. The President designates the chair. The President also appoints the general counsel, subject to the advice and consent of the Senate. (42 U.S.C. 2000e-4(a))

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
Cari M. Dominguez	R	07/19/01	07/01/06	III	Chair
Naomi C. Earp	R	10/31/03	07/01/05	IV	Vice Chair
Leslie E. Silverman	R	03/01/02	07/01/08	IV	Reappointed
Stuart Ishimaru	D	10/31/03	07/01/07	IV	
Vacant			07/01/09	IV	
Eric S. Dreiband	na	07/31/03	4 years	V	General Counsel

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
Naomi C. Earp	R	Member	01/09/03	Returned 12/08/04 <sup>a</sup>	
Eric S. Dreiband	na	General Counsel	02/04/03	07/31/03	177
Naomi C. Earp	R	Member	Recess Appointment 04/22/03 <sup>b</sup>		
Naomi C. Earp	R	Member	05/14/03	10/31/03	139
Leslie Silverman	R	Member	07/11/03	10/31/03	81
Stuart Ishimaru	D	Member	10/14/03	10/31/03	17
<b>Mean number of days to confirm a nomination</b>					<b>104</b>

na - not applicable

<sup>a</sup> When a recess appointment is made, the President generally submits a new nomination for the nominee, even when an old nomination is pending, in compliance with 5 U.S.C. 5503. In this case, the second nomination was acted upon, and the first, "duplicate" nomination was returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

<sup>b</sup> Earp's recess appointment expired at the end of the 108<sup>th</sup> Congress, by which time her nomination had been confirmed by the Senate, as shown.

## Export-Import Bank (EXIMBANK) Board of Directors

The Export-Import Bank board of directors comprises the president of the bank, who serves as chair, the first vice president of the bank, who serves as vice chair, and three other members (no more than three of these five may be from the same political party). All five members are appointed by the President, with the advice and consent of the Senate and serve four-year terms. An incumbent whose term has expired may continue to serve (1) until a successor is qualified, or (2) until six months pass after the term expires — whichever occurs earlier. (12 U.S.C. 635a)

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
Philip Merrill	R	11/14/02	01/20/05	III	Chair
April H. Foley	R	12/09/03	01/20/05	IV	Vice Chair
Joseph Max Cleland	D	12/09/03	01/20/07	IV	
Linda M. Conlin	R	11/21/04	01/20/07	IV	
J. Joseph Grandmaison	D	12/20/01	01/20/05	IV	
Vacant <sup>a</sup>				IV	Inspector General

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
April H. Foley	R	Member	04/10/03	Withdrawn 11/21/03	
April H. Foley	R	Member		Recess Appointment 04/22/03 <sup>b</sup>	
April H. Foley	R	Member	05/14/03	Withdrawn 11/21/03	
Joseph Max Cleland	D	Member	11/21/03	12/09/03	18
April H. Foley	R	Vice Chair	11/21/03	12/09/03	18
Linda M. Conlin	R	Member	01/28/04	11/21/04	252
Linda M. Conlin	R	Member		Recess Appointment 04/16/04 <sup>c</sup>	
Linda M. Conlin	R	Member	05/13/04	Returned 12/08/04 <sup>d</sup>	
<b>Mean number of days to confirm a nomination</b>					<b>96</b>

<sup>a</sup> This position was established by P.L. 107-189, Sec. 22, but it has not been funded.

<sup>b</sup> Foley's recess appointment would have expired at the end of the 108<sup>th</sup> Congress, but she was subsequently confirmed to a different position, as shown.

<sup>c</sup> Conlin's recess appointment would have expired at the end of the first session of the 109<sup>th</sup> Congress, but her nomination was subsequently confirmed by the Senate, as shown.

<sup>d</sup> When a recess appointment is made, the President generally submits a new nomination for the nominee, even when an old nomination is pending, in compliance with 5 U.S.C. 5503. In this case, the first nomination was acted upon, and the second, "duplicate" nomination was returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

## Farm Credit Administration (FCA)

The FCA consists of three members (no more than two may be from the same political party) who serve six-year terms. A member may not succeed him- or herself unless he or she was first appointed to complete an unexpired term of three years or less. A member whose term expires may continue to serve until a successor takes office. The President designates the chair. (12 U.S.C. 2242)

### Membership as of December 8, 2004

<b>Incumbent</b>	<b>Party</b>	<b>Date first confirmed</b>	<b>Term expires</b>	<b>Pay level</b>	<b>Comments</b>
Nancy C. Pellett	R	11/14/02	05/31/08	III	Chair
Douglas L. Flory	R	08/01/02	10/13/06	IV	
Dallas Tonsager	D	11/21/04	05/21/10	IV	

### Appointment Action in the 108<sup>th</sup> Congress

<b>Nominee</b>	<b>Party</b>	<b>Position</b>	<b>Date nominated</b>	<b>Date confirmed</b>	<b>Days to confirm</b>
Dallas Tonsager	D	Member	11/16/04	11/21/04	5

## Federal Communications Commission (FCC)

The FCC consists of five members (no more than three may be from the same political party) who serve five-year terms. When a term expires, a member may continue to serve until the end of the next session of Congress. The President designates the chair. (47 U.S.C. 154)

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
Michael K. Powell	R	05/25/01	06/30/07	III	Chair
<i>Kathleen Q. Abernathy<sup>a</sup></i>	R	05/25/01	06/30/04	IV	
Michael J. Copps	D	05/25/01	06/30/05	IV	
Kevin J. Martin	R	05/25/01	06/30/06	IV	
Jonathan S. Adelstein	D	11/14/02	06/30/08	IV	Reappointed

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
Jonathan S. Adelstein	D	Member	11/16/04	11/20/04	4

<sup>a</sup> The term of the incumbent shown in italics has expired. She continued to serve under the holdover provision noted above.

## Federal Deposit Insurance Corporation (FDIC), Board of Directors

The FDIC consists of five members, of whom two — the comptroller of the currency and the director of the Office of Thrift Supervision (OTS) — are *ex officio*. The three appointed members (no more than two may belong to the same political party) serve six-year terms. When a term expires, the member may continue to serve until a successor is appointed. The President designates the chair for a term of five years and the vice chair, with the advice and consent of the Senate, from among the appointed officers. The President also appoints the inspector general, subject to the advice and consent of the Senate. (12 U.S.C. 1812)

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
Donald E. Powell	R	07/12/01	07/15/07	III	Chair <sup>a</sup>
John M. Reich	R	12/15/00	12/27/06	IV	Vice Chair
Thomas J. Curry	I	12/09/03	12/12/09	IV	
James E. Gilleran	na	Office of Thrift Supervision, Director			<i>ex officio</i>
Julie L. Williams	na	Comptroller of the Currency			<i>ex officio</i>
Gaston Gianni <sup>b</sup>	na	03/29/96	Indefinite <sup>c</sup>	IV	Inspector General

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
Thomas J. Curry	I	Member	06/12/03	12/09/03	149

na - not applicable

<sup>a</sup> Powell may serve as chair and Reich as vice chair for up to five years, and may serve the remainder of their six-year terms as members.

<sup>b</sup> Gianni retired from federal service on 12/31/04. Patricia Black began serving as Acting Inspector General on the following day.

<sup>c</sup> This position has no fixed term, but the President may remove an incumbent at any time. As noted above, the incumbent as of Dec. 8, 2004 retired at the end of that month.

## Federal Election Commission (FEC)

The FEC consists of six members (no more than three may be from the same political party) who serve six-year terms. When a term expires, a member may continue to serve until a successor takes office. Persons nominated and appointed to the FEC after December 31, 1997 are not eligible for reappointment after their terms expire. (P.L. 105-61, Title 5, sec. 513) The chair and vice chair, from different political parties and designated by the commission, change each year. Generally, the vice chair succeeds the chair. (2 U.S.C. 437c)

### Membership as of December 8, 2004

<b>Incumbent</b>	<b>Party</b>	<b>Date first confirmed</b>	<b>Term expires</b>	<b>Pay level</b>	<b>Comments</b>
<i>Scott E. Thomas<sup>a</sup></i>	D	07/30/98	04/30/03	IV	Chair
Michael E. Toner	R	03/18/03	04/30/07	IV	Vice Chair
Bradley A. Smith	R	05/24/00	04/30/05	IV	
<i>David M. Mason<sup>a</sup></i>	R	07/30/98	04/30/03	IV	
Danny M. McDonald	D	05/24/00	04/30/05	IV	
Ellen L. Weintraub	D	03/18/03	04/30/07	IV	

### Appointment Action in the 108<sup>th</sup> Congress

<b>Nominee</b>	<b>Party</b>	<b>Position</b>	<b>Date nominated</b>	<b>Date confirmed</b>	<b>Days to confirm</b>
Michael E. Toner	R	Member	01/09/03	03/18/03	68
Ellen L. Weintraub	D	Member	01/09/03	03/18/03	68
<b>Mean number of days to confirm a nomination</b>					68

<sup>a</sup> The terms of the incumbents shown in italics have expired.



## Federal Energy Regulatory Commission (FERC)

The FERC, an independent agency within the Department of Energy, consists of five members (no more than three may be from the same political party) who serve five-year terms. When a term expires, a member may continue to serve until a successor takes office, except that such commissioner may not serve beyond the end of the session of the Congress in which his or her term expires. The President designates the chair. (42 U.S.C. 7171)

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
Patrick H. Wood	R	05/25/01	06/30/05	III	Chair
Nora M. Brownell	R	05/25/01	06/30/06	IV	
Joseph T. Kelliher	R	11/07/03	06/30/07	IV	
Suedeem G. Kelly	D	11/07/03	06/30/09	IV	reappointment
Vacant			06/30/08	IV	

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
Joseph T. Kelliher	D	Member	01/09/03	11/07/03	271
Suedeem G. Kelly <sup>a</sup>	D	Member	06/16/03	11/07/03	113
Suedeem G. Kelly	D	Member	04/08/04	11/22/04	181
<b>Mean number of days to confirm a nomination</b>					<b>188</b>

<sup>a</sup> For the remainder of the term expiring 06/30/04, replacing Curt Hebert, Jr., resigned.

## Federal Housing Finance Board (FHFB)

The FHFB consists of five members, of whom one — the Secretary of Housing and Urban Development (HUD) or his or her designee — is *ex officio*. The four appointed members serve seven-year terms, and no more than three may be from the same political party. An appointed member whose term expires may continue to serve until a successor is appointed. The President designates the chair from among the appointed members. (12 U.S.C. 1422a(1))

### Membership as of December 8, 2004<sup>a</sup>

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
Alicia K. Castaneda	R	12/09/03	02/27/11	III	Chair, <sup>a</sup> Reappointed
Vacant <sup>b</sup>			02/27/09	IV	
Allan I. Mendelowitz	D	11/29/01	02/27/07	IV	
Franz S. Leichter	D	11/29/01	02/27/06	IV	
John C. Weicher	na	designee			<i>ex officio</i>

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
Alicia K. Castaneda <sup>c</sup>	R	Director	06/18/03	12/09/03	143
Alicia K. Castaneda <sup>c</sup>	R	Director	06/18/03	12/09/03	143
Ronald A. Rosenfeld	R	Director	10/05/04	Returned 12/08/04 <sup>d</sup>	
Ronald A. Rosenfeld	R	Director	Recess appointment 12/14/04 <sup>b</sup>		
<b>Mean number of days to confirm a nomination</b>					<b>143</b>

<sup>a</sup> On 12/14/04, Ronald Rosenfeld was recess appointed as a director and as chair, compensated at Level III of the Executive Schedule. Consequently, at that time, Castaneda reverted to being a director compensated at Level IV.

<sup>b</sup> Rosenfeld was given a recess appointment to fill this director position and designated as chair by President George W. Bush on 12/14/04. Rosenfeld's recess appointment expires at the end of the 109<sup>th</sup> Congress, 1<sup>st</sup> session.

<sup>c</sup> The first nomination was to the position formerly held by Timothy O'Neill for the remainder of the term expiring 02/27/04. The second nomination was to the same position for the succeeding term.

<sup>d</sup> Returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

## Federal Labor Relations Authority (FLRA)

The FLRA consists of three members (no more than two may be from the same political party) who serve five-year terms. When a term expires, a member may continue to serve until the end of the next Congress. The President designates the chair. The general counsel is also appointed by the President, subject to the advice and consent of the Senate. (5 U.S.C. 7104)

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
Dale Cabaniss	R	11/09/97	07/29/07	IV	Chair Reappointment
<i>Carol W. Pope<sup>a</sup></i>	D	10/26/00	07/01/04	V	
Tony Armendariz	R	07/11/01	07/01/05	V	
Peter Eide <sup>b</sup>	R	Recess Appt. 04/22/03	Five years <sup>b</sup>	V	General Counsel

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
Dale Cabaniss	R	Chair	01/09/03	10/24/03	257
Peter Eide	R	General Counsel	01/09/03	Returned 12/09/03 <sup>c</sup>	
Peter Eide	R	General Counsel	Recess appointment 04/22/03 <sup>d</sup>		
Peter Eide	R	General Counsel	05/14/03	Returned 12/09/03 <sup>c</sup>	
Peter Eide	R	General Counsel	01/26/04	Returned 12/08/04 <sup>e</sup>	
<b>Mean number of days to confirm a nomination</b>					<b>257</b>

<sup>a</sup> The term of the incumbent shown in italics has expired.

<sup>b</sup> The general counsel is appointed for a term of five years. Eide's recess appointment expired at the end of the 108<sup>th</sup> Congress.

<sup>c</sup> When a recess appointment is made, the President generally submits a new nomination for the nominee, even when an old nomination is pending, in compliance with 5 U.S.C. 5503. In this case, both nominations were returned to the President at the end of the 108<sup>th</sup> Congress, 1<sup>st</sup> session under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

<sup>d</sup> Eide's recess appointment expired at the end of the 108<sup>th</sup> Congress.

<sup>e</sup> Returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

## Federal Maritime Commission (FMC)

The FMC consists of five members (no more than three may be from the same political party) who serve five-year terms. When a term expires, a member may continue to serve until a successor takes office. The President designates the chair. (46 U.S.C. 1111; Reorganization Plan No. 7 of 1961)

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
Steven R. Blust	R	08/01/02	06/30/06	III	Chair
Joseph E. Brennan	D	11/10/99	06/30/08	IV	Reappointed
Harold J. Creel, Jr.	D	10/21/98	06/30/09	IV	Reappointed
Rebecca F. Dye	R	11/14/02	06/30/05	IV	
A. Paul Anderson	R	05/05/04	06/30/07	IV	

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
A. Paul Anderson	R	Commissioner	04/10/03	Returned 12/08/04 <sup>a</sup>	
A. Paul Anderson	R	Commissioner	Recess Appointment 08/22/03 <sup>b</sup>		
A. Paul Anderson	R	Commissioner	10/01/03	05/05/04	176
Joseph E. Brennan	D	Commissioner	03/12/04	05/05/04	54
Harold J. Creel, Jr.	D	Commissioner	11/16/04	11/21/04	5
<b>Mean number of days to confirm a nomination</b>					<b>78</b>

<sup>a</sup> When a recess appointment is made, the President generally submits a new nomination for the nominee, even when an old nomination is pending, in compliance with 5 U.S.C. 5503. In this case, the second nomination was acted upon and the first, "duplicate" nomination was returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

<sup>b</sup> Anderson's recess appointment would have expired at the end of the 108<sup>th</sup> Congress, but he was subsequently confirmed, as shown.

## Federal Mine Safety and Health Review Commission (FMSHRC)

The FMSHRC consists of five members (no political balance is required) who serve six-year terms. When a term expires, the member must leave office. The President designates the chair. (30 U.S.C. 823)

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
Michael F. Duffy	na	11/19/02	08/30/06	III	Chair
Mary L. Jordan	na	07/31/03	08/30/08	IV	Reappointed
Stanley C. Suboleski	na	07/31/03	08/30/06	IV	
Michael G. Young	na	07/31/03	08/30/08	IV	
Vacant			08/30/10		

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
Stanley C. Suboleski	na	Commissioner	01/09/03	7/31/03	203
Mary L. Jordan	na	Commissioner	03/11/03	07/31/03	142
Stanley C. Suboleski	na	Commissioner	Recess Appointment 04/22/03 <sup>a</sup>		
Stanley C. Suboleski	na	Commissioner	05/14/03	Returned 12/08/04 <sup>b</sup>	
Michael G. Young	na	Commissioner	06/12/03	07/31/03	49
<b>Mean number of days to confirm a nomination</b>					<b>25</b>

na - not applicable

<sup>a</sup> Suboleski's recess appointment would have expired at the end of the 108<sup>th</sup> Congress, but he was subsequently confirmed, as shown.

<sup>b</sup> When a recess appointment is made, the President generally submits a new nomination for the nominee, even when an old nomination is pending, in compliance with 5 U.S.C. 5503. In this case, the first nomination was acted upon and the second, "duplicate" nomination was returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

## Federal Reserve System (FRS), Board of Governors

The FRS consists of seven members (no political balance is required) who serve 14-year terms. When a term expires, a member may continue to serve until a successor takes office. The President appoints the chair and vice chair, who are separately appointed as members, for four-year terms, with the advice and consent of the Senate. The chair and vice chair give up their positions when the four-year terms expire. (12 U.S.C. 241)

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
Alan Greenspan	na	08/03/87	01/31/06	II	Chair
Roger W. Ferguson	na	07/19/01	01/31/14	III	Vice Chair
Edward W. Gramlich	na	10/30/97	01/31/08	III	
Susan S. Bies	na	12/06/01	01/31/12	III	
Mark W. Olson	na	12/06/01	01/31/10	III	
Ben S. Bernanke	na	10/24/03	01/31/18	III	
Donald L. Kohn	na	07/31/02	01/31/16	III	

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
Ben S. Bernanke	na	Member	09/10/03	10/24/03	44
Roger W. Ferguson	na	Vice Chair	09/10/03	10/24/03	44
Alan Greenspan	na	Chair	05/18/04	06/17/04	30
<b>Mean number of days to confirm a nomination</b>					<b>39</b>

na - not applicable

## Federal Trade Commission (FTC)

The FTC consists of five members (no more than three may be from the same political party) who serve seven-year terms. When a term expires, the member may continue to serve until a successor takes office. The President designates the chair. (15 U.S.C. 41)

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
Deborah P. Majoras	R	11/21/04	09/25/08	III	Chair
<i>Orson G. Swindle<sup>a</sup></i>	R	03/12/98	09/25/04	IV	
Thomas B. Leary	R	11/10/99	09/25/05	IV	
Pamela J. Harbour	I	07/23/03	09/25/09	IV	
Jonathan D. Leibowitz	D	11/21/04	09/25/10	IV	

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
Pamela J. Harbour	I	Commissioner	06/12/03	07/23/03	41
Jonathan D. Leibowitz	D	Commissioner	04/08/04	Returned 07/22/04 <sup>b</sup>	
Deborah P. Majoras	R	Commissioner	05/11/04	Returned 07/22/04 <sup>b</sup>	
Jonathan D. Leibowitz	D	Commissioner	Recess Appointment 09/01/04 <sup>c</sup>		
Deborah P. Majoras	R	Commissioner	Recess Appointment 09/01/04 <sup>c</sup>		
Jonathan D. Leibowitz	D	Commissioners	09/10/04	11/21/04	72
Deborah P. Majoras	R	Commissioner	09/10/04	11/21/04	72
<b>Mean number of days to confirm a nomination</b>					<b>62</b>

<sup>a</sup> The term of the incumbent shown in italics has expired.

<sup>b</sup> Returned to the President at the beginning of a 31-day period of Senate adjournment under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

<sup>c</sup> Each of these recess appointments would have expired at the end of the first session of the 109<sup>th</sup> Congress, but the appointees were subsequently confirmed as shown.

## Foreign Claims Settlement Commission (FCSC)

The FCSC, located in the Department of Justice, consists of three members (political balance is not required) who serve three-year terms. When a term expires, the member may continue to serve until a successor takes office. Only the chair, who also is appointed by the President with the advice and consent of the Senate, serves full-time. (22 U.S.C. 1622)

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
Mauricio J. Tamargo	na	01/25/02	09/30/06	V	Chair, reappointment

### Appointment Action in the 108<sup>th</sup> Congress<sup>a</sup>

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
Mauricio J. Tamargo	na	Chair	07/11/03	10/03/03	53

na - not applicable

<sup>a</sup> Nominations for part-time positions at the Foreign Claims Settlement Commission also occurred during the 108<sup>th</sup> Congress. This report covers only full-time positions, however, so the part-time nominations are not included in this table.



## Merit Systems Protection Board (MSPB)

The MSPB consists of three members (no more than two may be from the same political party) who serve seven-year terms. When a term expires, the member may continue to serve for one year. The President appoints the chair, subject to Senate confirmation, and designates the vice chair. (5 U.S.C. 1201-1203)

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
Neil A. G. McPhie	R	11/21/04	03/01/09	III	Chair
<i>Susanne T. Marshall</i>	R	11/09/97	03/01/04	IV	
Barbara J. Sapin	D	11/21/04	03/01/07	IV	

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
Susanne T. Marshall	R	Chair	01/09/03	Returned 12/09/03 <sup>b</sup>	
Neil A. G. McPhie	R	Member	01/09/03	Returned 12/09/03 <sup>b</sup>	
Neil A. G. McPhie	R	Member	Recess Appointment 04/22/03 <sup>c</sup>		
Neil A. G. McPhie	R	Member	05/14/03	Returned 12/09/03 <sup>b</sup>	
Susanne T. Marshall	R	Chair	01/26/04	Withdrawn 02/26/04 <sup>d</sup>	
Neil A. G. McPhie	R	Member	01/26/04	11/21/04	254
Neil A. G. McPhie	R	Chair	02/26/04	11/21/04	223
Barbara J. Sapin	D	Member	04/08/04	11/21/04	181
<b>Mean number of days to confirm a nomination</b>					<b>329</b>

<sup>a</sup> The term of the incumbent shown in italics has expired.

<sup>b</sup> When a recess appointment is made, the President generally submits a new nomination for the nominee, even when an old nomination is pending, in compliance with 5 U.S.C. 5503. In this case, both nominations were returned to the President at the end of the first session of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXI, paragraph 6 of the Standing Rules of the Senate.

<sup>c</sup> McPhie's recess appointment would have expired at the end of the 108<sup>th</sup> Congress, but he was subsequently confirmed as a member and as chair, as shown.

<sup>d</sup> Susanne T. Marshall's nomination for Chair was withdrawn on 2/26/04 and Neil A.G. McPhie was nominated for Chair on 2/26/04.

## National Credit Union Administration (NCUA), Board of Directors

The NCUA board consists of three members (no more than two members may be from the same political party) who serve six-year terms. When a term expires, a member may continue to serve until a successor takes office. The President designates the chair and vice chair. (12 U.S.C. 1752a)

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
JoAnn M. Johnson	R	03/22/02	08/02/07	III	Chair
Deborah Matz	D	03/22/02	08/02/05	IV	
Vacant			4/10/09	IV	

### No Appointment Action in the 108<sup>th</sup> Congress

## National Labor Relations Board (NLRB)

The NLRB consists of five members who serve five-year terms. Political balance is not required, but, by tradition, no more than three members are from the same political party. When a term expires, the member must leave office. The President designates the chair. The President also appoints the general counsel, subject to the advice and consent of the Senate. (29 U.S.C. 153)

### Membership as of December 16, 2004<sup>a</sup>

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
Robert J. Battista	R	11/14/02	12/16/07	III	Chair
Peter Schaumber	R	11/14/02	08/27/05	IV	
Wilma B. Liebman	D	11/14/02	08/27/06	IV	
vacant			08/27/08	IV	
vacant			12/16/09	IV	
Arthur F. Rosenfeld	R	05/26/01	06/03/05	IV	General Counsel

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
Ronald E. Meisburg	R	Member	11/20/03	Returned 12/08/04 <sup>b</sup>	
Ronald E. Meisburg	R	Member		Recess Appointment 12/23/03 <sup>c</sup>	
Ronald E. Meisburg	R	Member	01/21/04	Returned 12/08/04 <sup>b</sup>	

<sup>a</sup> Unlike most other tables in this report, this table provides the membership as of 12/16/04 rather than 12/08/04. This later date is used because of the change in the chair as of that date.

<sup>b</sup> When a recess appointment is made, the President generally submits a new nomination for the nominee, even when an old nomination is pending, in compliance with 5 U.S.C. 5503. In this case, both nominations were returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

<sup>c</sup> Meisburg's recess appointment expired at the end of the 108<sup>th</sup> Congress.

## National Mediation Board (NMB)

The board consists of three members (no more than two may be from the same political party) who serve three-year terms. When a term expires, the member continues to serve until a successor takes office. The board annually designates a chair. (45 U.S.C. 154)

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
Harry R. Hoglander	D	08/01/02	07/01/05	III	Chair
<i>Edward J. Fitzmaurice Jr.<sup>a</sup></i>	R	08/01/02	07/01/04	IV	
Read Van de Water	R	12/03/03	07/01/06	IV	

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
Read Van de Water	R	Member	09/15/03	12/09/03	85
<b>Mean number of days to confirm a nomination</b>					<b>85</b>

<sup>a</sup> The term of the incumbent shown in italics has expired.

## National Transportation Safety Board (NTSB)

The board consists of five members (no more than three may be from the same political party) who serve five-year terms. When a term expires, a member may continue to serve until a successor takes office. The President appoints the chair, from among the members, for a two-year term, with the advice and consent of the Senate, and designates the vice chair. (49 U.S.C. 1111)

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
Ellen G. Engleman	R	03/19/03	12/31/07	III	Chair
Mark V. Rosenker	R	03/19/03	04/03/05	IV	Vice Chair
Carol J. Carmody	D	05/24/00	12/31/04	IV	
Richard F. Healing	R	03/19/03	12/31/06	IV	
Deborah Hersman	D	03/02/04	12/31/08	IV	

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
Mark V. Rosenker	R	Member	01/09/03	03/19/03	69
Richard F. Healing	R	Member	01/09/03	03/19/03	69
Ellen G. Engleman	R	Chair	02/14/03	03/19/03	33
Ellen G. Engleman	R	Member	02/14/03	03/19/03	33
Deborah Hersman	D	Member	03/02/04	05/21/04	80
<b>Mean number of days to confirm a nomination</b>					<b>57<sup>a</sup></b>

<sup>a</sup> The mean was calculated by averaging all values in the "Days to confirm" column, including the values for both Engleman confirmations.

## Nuclear Regulatory Commission (NRC)

The NRC consists of five members (no more than three may be from the same political party) who serve five-year terms. When a term expires, the member must leave office. The President designates the chair. The President also appoints the inspector general, with the advice and consent of the Senate. (42 U.S.C. 5841)

### Membership as of December 8, 2004

<b>Incumbent</b>	<b>Party</b>	<b>Date first confirmed</b>	<b>Term expires</b>	<b>Pay level</b>	<b>Comments</b>
Nils. J. Diaz	R	09/26/01	06/30/06	II	Chair
Edward Mcaffigan, Jr.	D	05/24/00	06/30/05	III	
Jeffrey S. Merrifield	R	08/01/02	06/30/07	III	
vacant			06/30/08	III	
vacant			06/30/09	III	
Hubert T. Bell	na	06/11/96	Indefinite	IV	Inspector General

### Appointment Action in the 108<sup>th</sup> Congress

<b>Nominee</b>	<b>Party</b>	<b>Position</b>	<b>Date nominated</b>	<b>Date confirmed</b>	<b>Days to confirm</b>
John Joseph Grossenbacher <sup>a</sup>	R	Member	07/25/03	Withdrawn	02/08/04
John Joseph Grossenbacher <sup>a</sup>	R	Member	07/25/03	Withdrawn	02/08/04
Gregory B. Jaczko	D	Member	02/12/04	Returned	12/08/04 <sup>b</sup>
Albert Henry Konetzi	R	Member	11/16/04	Returned	12/08/04 <sup>b</sup>

na-not applicable

<sup>a</sup> The first nomination was to the position formerly held by Richard A. Meserve for the remainder of the term expiring 06/30/04. The second nomination was to the same position for the succeeding term.

<sup>b</sup> Returned to the President at the end of the 108th Congress under the provisions of Senate Rule XXI, paragraph 6 of the Standing Rules of the Senate.

## Occupational Safety and Health Review Commission (OSHRC)

The OSHRC consists of three members (political balance is not required) who serve six-year terms. When a term expires, the member must leave office. The President designates the chair. (29 U.S.C. 661)

### Membership as of December 8, 2004

<b>Incumbent</b>	<b>Party</b>	<b>Date first confirmed</b>	<b>Term expires</b>	<b>Pay level</b>	<b>Comments</b>
W. Scott Railton	na	07/31/03	04/27/07	III	Chair
Thomasina Rogers	na	07/31/03	04/27/09	IV	
James M. Stephens	na	11/14/02	04/27/05	IV	

### Appointment Action in the 108<sup>th</sup> Congress

<b>Nominee</b>	<b>Party</b>	<b>Position</b>	<b>Date nominated</b>	<b>Date confirmed</b>	<b>Days to confirm</b>
W. Scott Railton	na	Member	01/09/03	07/31/03	203
Thomasina Rogers	na	Member	07/15/03	07/31/03	16
<b>Mean number of days to confirm a nomination</b>					<b>110</b>

na-not applicable

## Postal Rate Commission (PRC)

The PRC consists of five members (no more than three may be from the same political party) who serve six-year terms. When a term expires, the member may continue to serve for one year. The President designates the chair. The commissioners designate the vice chair. (39 U.S.C. 3601)

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
George A. Omas	R	10/26/00	10/14/06	III	Chair
<i>Dana B. Covington Sr.<sup>a</sup></i>	R	10/21/98	10/14/04	IV	Vice Chair
<i>Tony Hammond<sup>a</sup></i>	R	11/12/02	11/22/04	IV	
Ruth Y. Goldway	D	11/12/02	11/22/08	IV	
Dawn A. Tisdale	D	11/21/04	11/22/06	IV	

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
Dawn A. Tisdale	D	Commissioner	02/11/04	11/21/04	238
Tony Hammond	R	Commissioner	11/16/04	Returned 12/08/04 <sup>b</sup>	
<b>Mean number of days to confirm a nomination</b>					<b>238</b>

<sup>a</sup> The terms of the incumbents shown in italics have expired.

<sup>b</sup> Returned to the President at the end of the 108th Congress under the provisions of Senate Rule XXI, paragraph 6 of the Standing Rules of the Senate.



## Railroad Retirement Board (RRB)

The board consists of three members (political balance is not required) who serve five-year terms. When a term expires, the member may continue to serve until a successor takes office. The President appoints the chair, and an inspector general, with the advice and consent of the Senate. (45 U.S.C. 231f)

### Membership as of December 8, 2004

<b>Incumbent</b>	<b>Party</b>	<b>Date first confirmed</b>	<b>Term expires</b>	<b>Pay level</b>	<b>Comments</b>
Michael S. Schwartz	na	05/23/03	08/28/07	III	Chair
<i>Jerome F. Kever<sup>a</sup></i>	na	05/24/00	08/28/03	IV	Management Member, Reappointed
<i>Virgil M. Speakman Jr.<sup>a</sup></i>	na	05/24/00	08/28/04	IV	Labor Member, Reappointed
Martin J. Dickman	na	10/08/94	Indefinite	IV	Inspector General

### Appointment Action in the 108<sup>th</sup> Congress

<b>Nominee</b>	<b>Party</b>	<b>Position</b>	<b>Date nominated</b>	<b>Date confirmed</b>	<b>Days to confirm</b>
Michael S. Schwartz	na	Chair	01/21/03	05/23/03	122

na - not applicable

<sup>a</sup> The terms of the incumbents shown in italics have expired.

## Securities and Exchange Commission (SEC)

The commission consists of five members (no more than three may be from the same political party) who serve five-year terms. When a term expires, the member may continue to serve until the end of the next session of Congress. The President designates the chair. (15 U.S.C. 78d)

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
William H. Donaldson	R	02/13/03	06/05/07	III	Chair
Cynthia A. Glassman	R	07/25/02	06/05/06	IV	
Roel C. Campos	D	07/25/02	06/05/05	IV	
<i>Harvey J. Goldschmid<sup>a</sup></i>	D	07/25/02	06/05/04	IV	
Paul S. Atkins	R	07/25/02	06/05/08	IV	Reappointed

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
William H. Donaldson	R	Member	01/28/03	02/13/03	16
Paul S. Atkins	R	Member	09/03/03	10/24/03	51
<b>Mean number of days to confirm a nomination</b>					<b>33</b>

<sup>a</sup> The term of the incumbent shown in italics has expired.

## Surface Transportation Board (STB)

The STB, located within the Department of Transportation, consists of three members (no more than two may be from the same political party) who serve five-year terms. When a term expires, the member may continue to serve until a successor takes office, but not for more than one year after expiration. The President designates the chair. (49 U.S.C. 701)

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
Roger Nober	R	11/14/02	12/31/05	III	Chair
Francis P. Mulvey	D	05/21/04	12/31/07	IV	Vice Chair
W. Douglas Buttrey	R	05/21/04	12/31/08	IV	

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
Francis P. Mulvey	D	Member	11/17/03	05/21/04	145
W. Douglas Buttrey	R	Member	11/17/03	05/21/04	145
<b>Mean number of days to confirm a nomination</b>					<b>145</b>

## Tennessee Valley Authority (TVA)

The TVA consists of three members (political balance is not required) who serve nine-year terms. When a term expires, the member must leave office. The President designates the chair. The President also appoints the inspector general with the advice and consent of the Senate. (16 U.S.C. 831a)

Changes were made to the governing structure of the TVA by P.L. 108-447, Division C, Section 601, which include, for example, an increase of the size of the board of directors to nine members. These changes are due to go into effect in 2005 or later, and are not, therefore, reflected in the tables below.

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
Glenn McCullough Jr.	na	11/10/99	05/18/05	III	Chair
William Baxter	na	11/10/99	05/18/08	IV	
Skila Harris	na	11/27/01	05/18/11	IV	
Richard Moore	na	05/01/03	Indefinite	IV	Inspector General <sup>a</sup>

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
Richard Moore	na	Inspector General	02/04/03	05/01/03	86

na - not applicable

<sup>a</sup> The inspector general of the Tennessee Valley Authority was established, by P.L. 106-422 (Nov. 1, 2000), as a position to which appointments are made by the President with the advice and consent of the Senate. Moore is the first appointee to this position.

## United States International Trade Commission (USITC)

The USITC consists of six members (no more than three may be from the same political party) who serve nine-year terms. When a term expires, a member may continue to serve until a successor takes office. The President designates the chair and vice chair for two-year terms of office, but they may neither belong to the same political party nor be the two most recently appointed members of the commission. A new chair may not belong to the same political party as the chair being replaced, unless the replacement is to complete an unexpired term. (19 U.S.C. 1330)

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
Stephan Koplan	D	07/30/98	06/16/05	III	Chair
Deanna T. Okun	R	11/19/99	06/16/08	IV	Vice Chair
<i>Marcia E. Miller<sup>a</sup></i>	D	06/26/96	12/16/03	IV	
Jennifer A. Hillman	D	07/30/98	12/16/06	IV	
Charlotte R. Lane	R	11/21/04	12/16/09	IV	
Daniel R. Pearson	R	11/21/04	06/16/11	IV	

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
Charlotte R. Lane	R	Member	01/09/03	11/21/04	564
Daniel R. Pearson	R	Member	01/09/03	11/21/04	564
Charlotte R. Lane	R	Member		Recess appointment 08/22/03 <sup>b</sup>	
Daniel R. Pearson	R	Member		Recess appointment 08/22/03 <sup>c</sup>	
Daniel R. Pearson	R	Member	10/01/03	Returned 12/08/04 <sup>d</sup>	
Charlotte R. Lane	R	Member	10/01/03	Returned 12/08/04 <sup>d</sup>	
<b>Mean number of days to confirm a nomination</b>					<b>564</b>

<sup>a</sup> The term of the incumbent shown in italics has expired

<sup>b</sup> On Aug. 22, 2003, Lane received a recess appointment to serve as member, which would have expired on Dec. 8, 2004. Lane was subsequently confirmed.

<sup>c</sup> On Aug. 22, 2003, Pearson received a recess appointment to serve as member, which would have expired on Dec. 8, 2004. Pearson was subsequently confirmed.

<sup>d</sup> When a recess appointment is made, the President generally submits a new nomination for the nominee, even when an old nomination is pending, in compliance with 5 U.S.C. 5503. In these two cases, the first nominations were acted upon, and the second nominations were returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

## United States Parole Commission (USPC)

The USPC is an independent agency in the Department of Justice. The commission consists of five commissioners (political balance is not required) who serve for six year terms. When a term expires, a member may continue to serve until a successor takes office. The President designates the chair. The commission was previously scheduled to be phased out, but its life has been extended several times by Congress. Under P.L. 107-273, Division C, Section 11017, it was extended until November 1, 2005. (18 U.S.C. 4201-4218)

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
Edward F. Reilly, Jr.	na	08/12/91	For all positions, 6 years from appointment or when commission is phased out	IV	Chair, reappointed
Cranston J. Mitchell	na	03/06/03		V	Vice Chair
Deborah Ann Spagnoli	na	11/21/04		V	
Isaac Fulwood, Jr.	na	11/21/04		V	
Patricia Cushwa	na	11/21/04		V	

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
Edward F. Reilly, Jr.	na	Commissioner	01/09/03	03/06/03	56
Cranston J. Mitchell	na	Commissioner	01/09/03	03/06/03	56
Deborah Ann Spagnoli	na	Commissioner	06/25/03	11/21/04	397
Isaac Fulwood, Jr.	na	Commissioner	02/02/04	11/21/04	247
Deborah Ann Spagnoli	na	Commissioner	Recess appointment 05/28/04 <sup>a</sup>		
Deborah Ann Spagnoli	na	Commissioner	06/24/04	Returned 12/08/04 <sup>b</sup>	
Patricia Cushwa	na	Commissioner	11/16/04	11/21/04	5
<b>Mean number of days to confirm a nomination</b>					<b>152</b>

na - not applicable

<sup>a</sup> Spagnoli's recess appointment would have expired at the end of the 109<sup>th</sup> Congress, 1<sup>st</sup> session, but she was subsequently confirmed, as shown.

<sup>b</sup> When a recess appointment is made, the President generally submits a new nomination for the nominee, even when an old nomination is pending, in compliance with 5 U.S.C. 5503. In this case, the first nomination was acted upon, and the second, "duplicate" nomination was returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

## United States Sentencing Commission (USSC)

The USSC consists of seven voting members, who are appointed to six-year terms. Only the chair and three vice chairs, selected from among the members, serve full-time. The President appoints the chair, subject to Senate confirmation, and designates the vice chairs. No more than three members may be federal judges, and no more than four may be of the same political party. No more than two vice chairs may be of the same political party. No voting member may serve more than two full terms. When a term expires, an incumbent may continue to serve until he or she is reappointed, a successor takes office, or Congress adjourns *sine die* at the end of the session that commences after the expiration of the term, which ever is earliest. The Attorney General (or designee) serves *ex officio*. (28 U.S.C. 991-992) The chair of the United State Parole Commission is also an *ex officio* member of the commission. (18 U.S.C. 3551 note)

### Membership as of December 8, 2004

Incumbent	Party	Date first confirmed	Term expires	Pay level	Comments
Ricardo Hinojosa	R	11/21/04	10/31/07	Same as rate for federal appeals court judges	Chair
Ruben Castillo	<sup>a</sup>	11/10/99	10/31/09		Vice Chair Reappointed
William K. Sessions III	<sup>a</sup>	11/10/99	10/31/09		Vice Chair Reappointed
John R. Steer	R	11/10/99	10/31/05		Vice Chair

### Appointment Action in the 108<sup>th</sup> Congress

Nominee	Party	Position	Date nominated	Date confirmed	Days to confirm
Ricardo Hinojosa <sup>b</sup>	R	Member	01/16/03	05/22/03	126
William K. Sessions III	<sup>a</sup>	Member	09/30/03	12/09/03	70
Ricardo Hinojosa	R	Chair	02/23/04	11/21/04	226
Ruben Castillo	<sup>a</sup>	Member	07/12/04	11/21/04	86
Ricardo Hinojosa	R	Chair	Recess appointment 08/02/04 <sup>c</sup>		
Ricardo Hinojosa	R	Chair	09/10/04	Returned 12/08/04 <sup>d</sup>	
<b>Mean number of days to confirm a nomination<sup>e</sup></b>					<b>127</b>

<sup>a</sup> Party balance is statutorily required as discussed above, but the commission staff does not collect this information. For these members, alternative sources of information could not be located.

<sup>b</sup> Hinojosa was initially confirmed as a member and later as chair.

<sup>c</sup> Hinojosa's recess appointment, to serve as chair, would have expired at the end of the 109<sup>th</sup> Congress, 1<sup>st</sup> session. Hinojosa was subsequently confirmed as chair on Nov. 21, 2004.

<sup>d</sup> When a recess appointment is made, the President generally submits a new nomination for the nominee, even when an old nomination is pending, in compliance with 5 U.S.C. 5503. In this case, the first nomination was acted upon, and the second, "duplicate" nomination was returned to the President at the end of the 108<sup>th</sup> Congress under the provisions of Senate Rule XXXI, paragraph 6 of the Standing Rules of the Senate.

<sup>e</sup> The mean was calculated by averaging all values in the "Days to confirm" column, including the values for both Hinojosa confirmations.



## Appendix A. Nominees and Appointees, 108<sup>th</sup> Congress

Nominee	Board/ Commission <sup>a</sup>	Nomination date	Confirmation date	Days to confirm
Jonathan S. Adelstein	FCC	11/16/04	11/20/04	4
A. Paul Anderson	FMC	04/10/03	Returned 12/08/04	
A. Paul Anderson	FMC	Recess Appointment 08/22/03		
A. Paul Anderson	FMC	10/01/03	05/05/04	176
Paul S. Atkins	SEC	09/03/03	10/24/03	51
Joseph F. Bader	DNFSB	05/11/04	11/21/04	148
Ben S. Bernanke	FRS	09/10/03	10/24/03	44
Joseph E. Brennan	FMC	03/12/04	05/05/04	54
Sharon Brown-Hruska	CFTC	07/22/04	11/21/04	76
W. Douglas Buttrey	STB	11/17/03	05/21/04	145
Dale Cabaniss	FLRA	01/09/03	10/24/03	257
Alicia K. Castaneda	FHFB	06/18/03	12/09/03	143
Alicia K. Castaneda	FHFB	06/18/03	12/09/03	143
Ruben Castillo	USSC	07/12/04	11/21/04	86
Joseph Max Cleland	EXIMBANK	11/21/03	12/09/03	18
Linda M. Conlin	EXIMBANK	01/28/04	11/21/04	252
Linda M. Conlin	EXIMBANK	Recess Appointment 04/16/04		
Linda M. Conlin	EXIMBANK	05/13/04	Returned 12/08/04	
Harold J. Creel, Jr	FMC	11/16/04	11/21/04	5
Thomas J. Curry	FDIC	06/12/03	12/09/03	149
Patricia Cushwa	USPC	11/16/04	11/21/04	5
Paul S. DeGregorio	EAC	10/03/03	12/09/03	67
William H. Donaldson	SEC	01/28/03	02/13/03	16
Eric S. Dreiband	EEOC	02/04/03	07/31/03	177
Michael V. Dunn	CFTC	11/16/04	11/21/04	5
Naomi C. Earp	EEOC	01/09/03	Returned 12/08/04	
Naomi C. Earp	EEOC	Recess Appointment 04/22/03		
Naomi C. Earp	EEOC	05/14/03	10/31/03	139
Peter Eide	FLRA	01/09/03	Returned 12/09/03	
Peter Eide	FLRA	05/14/03	Returned 12/09/03	
Peter Eide	FLRA	01/26/04	Returned 12/08/04	
Peter Eide	FLRA	Recess Appointment 04/22/03		
Ellen G. Engleman (Chair)	NTSB	02/14/03	03/19/03	33

<b>Nominee</b>	<b>Board/ Commission<sup>a</sup></b>	<b>Nomination date</b>	<b>Confirmation date</b>	<b>Days to confirm</b>
Ellen G. Engleman (Member)	NTSB	02/14/03	03/19/03	33
Roger W. Ferguson	FRS	09/10/03	10/24/03	44
April H. Foley	EXIMBANK	04/10/03	Withdrawn 11/21/03	
April H. Foley	EXIMBANK	Recess Appointment 04/22/03		
April H. Foley	EXIMBANK	05/14/03	Withdrawn 11/21/03	
April H. Foley	EXIMBANK	11/21/03	12/09/03	18
Isaac Fulwood, Jr.	USPC	02/02/04	11/21/04	247
Alan Greenspan	FRS	05/18/04	06/17/04	30
John Joseph Grossenbacher	NRC	07/25/03	Withdrawn 02/08/04	
John Joseph Grossenbacher	NRC	07/25/03	Withdrawn 02/08/04	
Tony Hammond	PRC	11/16/04	Returned 12/08/04	
Pamela J. Harbour	FTC	06/12/03	07/23/03	41
Frederick W. Hatfield	CFTC	10/07/04	11/21/04	45
Richard F. Healing	NTSB	01/09/03	03/19/03	69
Deborah Hersman	NTSB	03/02/04	05/21/04	80
Gracia M. Hillman	EAC	10/03/03	12/09/03	67
Ricardo Hinojosa (Member)	USSC	01/16/03	05/22/03	126
Ricardo Hinojosa (Chair)	USSC	02/23/04	11/21/04	226
Ricardo Hinojosa (Chair)	USSC	Recess appointment 08/02/04		
Ricardo Hinojosa (Chair)	USSC	09/10/04	Returned 12/08/04	
Stuart Ishimaru	EEOC	10/14/03	10/31/03	17
Gregory B. Jaczko	NRC	02/12/04	Returned 12/08/04	
Mary L. Jordan	FMSHRC	03/11/03	07/31/03	142
Joseph T. Kelliher	FERC	01/09/03	11/07/03	271
Suedeem G. Kelly	FERC	06/16/03	11/07/03	113
Suedeem G. Kelly	FERC	04/08/04	11/21/04	181
Albert Henry Konetzi	NRC	11/16/04	Returned 12/08/04	
Charlotte R. Lane	USITC	01/09/03	11/21/04	564
Charlotte R. Lane	USITC	Recess appointment 08/22/03		
Charlotte R. Lane	USITC	10/01/03	Returned 12/08/04	
Jonathan D. Leibowitz	FTC	04/08/04	Returned 07/22/04	
Jonathan D. Leibowitz	FTC	Recess Appointment 9/01/04		
Jonathan D. Leibowitz	FTC	9/10/04	11/21/04	72

<b>Nominee</b>	<b>Board/ Commission<sup>a</sup></b>	<b>Nomination date</b>	<b>Confirmation date</b>	<b>Days to confirm</b>
Neil A. G. McPhie	MSPB	01/09/03	Returned 12/09/03	
Neil A. G. McPhie	MSPB	Recess Appointment 4/22/03		
Neil A. G. McPhie	MSPB	05/14/03	Returned 12/09/03	
Neil A. G. McPhie (Member)	MSPB	01/26/04	11/21/04	254
Neil A. G. McPhie (Chair)	MSPB	02/26/04	11/21/04	223
Deborah P. Majoras	FTC	05/11/04	Returned 07/22/04	
Deborah P. Majoras	FTC	Recess Appointment 09/01/04		
Deborah P. Majoras	FTC	09/10/04	11/21/04	72
Susanne T. Marshall	MSPB	01/09/03	Returned 12/09/03	
Susanne T. Marshall	MSPB	01/26/04	Withdrawn 02/26/04	
Raymundo Martinez, III	EAC	10/03/03	12/09/03	67
R. Bruce Matthews	DNFSB	01/09/03	Returned 12/08/04	
R. Bruce Matthews	DNFSB	Recess Appointment 04/22/03		
R. Bruce Matthews	DNFSB	05/14/03	11/21/04	439
Rixio E. Medina	CSHIB	06/25/03	12/09/03	136
Ronald E. Meisburg	NLRB	11/20/03	Returned 12/08/04	
Ronald E. Meisburg	NLRB	Recess Appointment 12/23/03		
Ronald E. Meisburg	NLRB	01/21/04	Returned 12/08/04	
Thomas H. Moore	CPSC	03/11/04	Withdrawn 03/23/04	
Thomas H. Moore	CPSC	03/23/04	05/21/04	59
Cranston J. Mitchell	USPC	01/09/03	03/06/03	56
Richard Moore	TVA	02/04/03	05/01/03	86
Francis P. Mulvey	STB	11/17/03	05/21/04	145
Daniel R. Pearson	USITC	01/09/03	11/21/04	564
Daniel R. Pearson	USITC	Recess appointment 08/22/03		
Daniel R. Pearson	USITC	10/01/03	Returned 12/08/04	
W. Scott Railton	OSHRC	01/09/03	07/31/03	203
Edward F. Reilly, Jr.	USPC	01/09/03	03/06/03	56
Thomasina Rogers	OSHRC	07/15/03	07/31/03	16
Ronald A. Rosenfeld	FHFB	10/05/04	Returned 12/08/04	
Ronald A. Rosenfeld	FHFB	Recess appointment 12/14/04		
Mark V. Rosenker	NTSB	01/09/03	03/19/03	69
Barbara J. Sapin	MSPB	04/08/04	11/21/04	181
Michael S. Schwartz	RRB	01/21/03	05/23/03	122

<b>Nominee</b>	<b>Board/ Commission<sup>a</sup></b>	<b>Nomination date</b>	<b>Confirmation date</b>	<b>Days to confirm</b>
William K. Sessions III	USSC	09/30/03	12/09/03	70
Leslie Silverman	EEOC	07/11/03	10/31/03	81
DeForest B. Soaries, Jr.	EAC	10/03/03	12/09/03	67
Deborah Ann Spagnoli	USPC	06/25/03	11/21/04	397
Deborah Ann Spagnoli	USPC	Recess appointment 05/28/04		
Deborah Ann Spagnoli	USPC	06/24/04	Returned 12/08/04	
Stanley C. Suboleski	FMSHRC	01/09/03	07/31/03	203
Stanley C. Suboleski	FMSHRC	Recess Appointment 04/22/03		
Stanley C. Suboleski	FMSHRC	05/14/03	Returned 12/08/04	
Mauricio J. Tamargo	FCSC	07/11/03	10/03/03	53
Dawn A. Tisdale	PRC	02/11/04	11/21/04	238
Michael E. Toner	FEC	01/09/03	03/18/03	68
Dallas Tonsager	FCA	11/16/04	11/21/04	5
Read Van de Water	NMB	09/15/03	12/09/03	85
Ellen L. Weintraub	FEC	01/09/03	03/18/03	68
Gary L. Visscher	CSHIB	10/14/03	11/21/04	317
Gary L. Visscher	CSHIB	Recess Appointment 08/02/04		
Gary L. Visscher	CSHIB	09/10/04	Returned 12/08/04	
Michael G. Young	FMSHRC	06/12/03	07/31/03	49
<b>Mean number of days to confirm</b>				<b>125</b>
<b>Median number of days to confirm</b>				<b>78</b>

<sup>a</sup> The key to agency acronyms is found in Appendix D.

## Appendix B. Appointment Action, 108<sup>th</sup> Congress

Agency <sup>a</sup>	Total Positions	Vacant <sup>b</sup> positions	Incumbent serving; term expired <sup>b</sup>	Nominations submitted	Individual nominees	Positions to which nominations were made <sup>c</sup>	Confirmations	Returned at an adjournment	Returned at the end of the 108 <sup>th</sup> Congress	Withdrawn	Recess appointments (Bush)
CSHIB	5	2	0	3	2	2	2	0	1	0	1
CFTC	5	1	0	3	3	3	3	0	0	0	0
CPSC	3	1	0	2	1	1	1	0	0	1	0
DNFSB	5	0	2	3	2	2	2	0	1	0	1
EAC	4	0	0	4	4	4	4	0	0	0	0
EEOC	6	1	0	5	4	4	4	0	1	0	1
EXIMBANK	6	0	0	6	3	3	3	0	1	2	2
FCA	3	0	0	1	1	1	1	0	0	0	0
FCC	5	0	1	1	1	1	1	0	0	0	0
FDIC	4	0	0	1	1	1	1	0	0	0	0
FEC	6	0	2	2	2	2	2	0	0	0	0
FERC	5	1	0	3	2	2	3	0	0	0	0
FHFB	4	0	0	3	2	2	2	0	1	0	1
FLRA	4	0	1	4	2	2	1	2	1	0	1
FMC	5	0	0	4	3	3	3	0	1	0	1
FMSHRC	5	1	0	4	3	3	3	0	1	0	1
FRS	7	0	0	3	3	3*	3	0	0	0	0
FTC	5	0	1	5	3	3	3	2	0	0	2
FCSC	1	0	0	1	1	1	1	0	0	0	0

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Agency <sup>a</sup>	Total Positions	Vacant <sup>b</sup> positions	Incumbent serving; term expired <sup>b</sup>	Nominations submitted	Individual nominees	Positions to which nominations were made <sup>c</sup>	Confirmations	Returned at an adjournment	Returned at the end of the 108 <sup>th</sup> Congress	Withdrawn	Recess appointments (Bush)
MSPB	3	0	1	7	3	4*	3	3	0	1	1
NCUA	3	1	0	0	0	0	0	0	0	0	0
NLRB	6	2	0	2	1	1	0	0	2	0	1
NMB	3	0	1	1	1	1	1	0	0	0	0
NTSB	5	0	0	5	4	5*	5	0	0	0	0
NRC	6	2	0	4	3	2	0	0	2	2	0
OSHRC	3	0	0	2	2	2	2	0	0	0	0
PRC	5	0	2	2	2	2	1	0	1	0	0
RRB	4	0	2	1	1	1	1	0	0	0	0
SEC	5	0	1	2	2	2	2	0	0	0	0
STB	3	0	0	2	2	2	2	0	0	0	0
TVA	4	0	0	1	1	1	1	0	0	0	0
USITC	6	0	1	4	2	2	2	0	2	0	2
USPC	5	0	0	6	5	5	5	0	1	0	1
USSC	4	0	0	5	3	4*	4	0	1	0	1
<b>TOTALS</b>	<b>153</b>	<b>12</b>	<b>15</b>	<b>102</b>	<b>75</b>	<b>77</b>	<b>72</b>	<b>7</b>	<b>17</b>	<b>6</b>	<b>17</b>

<sup>a</sup> A list of abbreviations may be found in Appendix D.

<sup>b</sup> As of Dec. 8, 2004.

<sup>c</sup> This column counts, as two nominations for one individual, separate nominations for member (or commissioner) and chair. Such instances have been identified by asterisk. The column does not count multiple nominations to one position for successive terms.

\* See table note c.

## Appendix C. Senate Adjournments<sup>a</sup> During the 108<sup>th</sup> Congress

Date adjourned	Date reconvened	Number of days adjourned <sup>b</sup>	Number of recess appointments to regulatory and other collegial boards and commissions
The first session of 108 <sup>th</sup> Congress convened on 01/07/03.			
01/23/03	01/28/03	4	
02/14/03	02/24/03	9	
04/11/03	04/29/03	17	7
05/23/03	06/02/03	9	
06/27/03	07/07/03	9	
08/01/03	09/02/03	31	3
10/03/03	10/14/03	10	
11/25/03	12/09/03	13	
The Senate adjourned sine die on 12/09/03. The second session of 108 <sup>th</sup> Congress convened 01/20/04. The intersession (period between these two dates) was 41 days long.			1
02/12/04	02/23/04	10	
03/12/04	03/22/04	9	
04/08/04	04/19/04	10	
05/21/04	06/01/04	10	1
06/09/04	06/14/04	4	
06/25/04	07/06/04	10	
07/22/04	09/07/04	46	4
10/11/04	11/16/04	35	
11/24/04	12/07/04	12	
The Senate adjourned sine die on 12/08/04. The first session of the 109 <sup>th</sup> Congress convened on 01/04/05. The intersession (period between these two dates) was 26 days long.			1

<sup>a</sup> Consistent with Art. I, Sec. 5 of the Constitution, this table includes all within and between session adjournments of four days or longer as indicated in the Senate "Days-in-Session Calendars" website at [<http://thomas.loc.gov/home/ds/index.html#senate>], visited Dec. 9, 2004.

<sup>b</sup> In this table, the number of days adjourned includes all those days between the date adjourned and the date reconvened.

## Appendix D. Board/Commission Abbreviations

CSHIB	Chemical Safety and Hazard Investigation Board
CFTC	Commodity Futures Trading Commission
CPSC	Consumer Product Safety Commission
DNFSB	Defense Nuclear Facilities Safety Board
EAC	Election Assistance Commission
EEOC	Equal Employment Opportunity Commission
EXIMBANK	Export-Import Bank
FCA	Farm Credit Administration
FCC	Federal Communications Commission
FDIC	Federal Deposit Insurance Corporation, Board of Directors
FEC	Federal Election Commission
FERC	Federal Energy Regulatory Commission
FHFB	Federal Housing Finance Board
FLRA	Federal Labor Relations Authority
FMC	Federal Maritime Commission
FMSHRC	Federal Mine Safety and Health Review Commission
FRS	Federal Reserve System, Board of Governors
FTC	Federal Trade Commission
FCSC	Foreign Claims Settlement Commission
MSPB	Merit Systems Protection Board
NCUA	National Credit Union Administration, Board of Directors
NLRB	National Labor Relations Board
NMB	National Mediation Board
NTSB	National Transportation Safety Board
NRC	Nuclear Regulatory Commission
OSHRC	Occupational Safety and Health Review Commission
PRC	Postal Rate Commission
RRB	Railroad Retirement Board
SEC	Securities and Exchange Commission
STB	Surface Transportation Board
TVA	Tennessee Valley Authority
USITC	United States International Trade Commission
USPC	United States Parole Commission
USSC	United States Sentencing Commission



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