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[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Energy; Department of Transportation

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under schedule C certain positions at the Department of Energy and Department of Transportation because they are confidential in nature. Appointments may be made to these positions without examination by the Civil Service Commission.

EFFECTIVE DATE: September 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3331(f)(4) and 213.3394(j)(1) are added as set out below:

§ 213.3331 Department of Energy.

* * * * *

(f) *Office of the Inspector General.* * * *

(4) One executive assistant to the Inspector General.

* * * * *

§ 213.3394 Department of Transportation.

* * * * *

(j) *Research and Special Programs Administration.*

(1) One secretary (steno) to the Administrator.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-27844 Filed 10-2-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Justice; Environmental Protection Agency; Department of Health, Education, and Welfare; Department of Transportation

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under schedule C certain positions at the Department of Justice; Environmental Protection Agency; Department of Health, Education, and Welfare; and Department of Transportation because they are confidential in nature. Appointments may be made to these positions without examination by the Civil Service Commission.

EFFECTIVE DATE: September 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3310(e)(3) and 213.3394(d)(7) are amended and 213.3316(n)(11) and 213.3318(a)(8) are added as set out below:

§ 213.3310 Department of Justice.

* * * * *

(e) *Civil Division.* * * *

(3) Two special assistants to the Assistant Attorney General.

* * * * *

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(n) *Office of the Assistant Secretary for Human Development.* * * *

(11) One deputy commissioner to the Commissioner, Rehabilitation Services Administration.

* * * * *

§ 213.3318 Environmental Protection Agency.

(a) *Office of the Administrator.* * * *

(8) One special assistant to a Regional Administrator.

* * * * *

§ 213.3394 Department of Transportation.

* * * * *

(d) *Federal Highway Administration.* * * *

(7) Two Special Assistants to the Administrator.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-27842 Filed 10-2-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Labor; Export-Import Bank of the United States

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment to schedule C (1) excepts a position from competitive status at the Export-Import Bank of the United States because it is confidential in nature and (2) changes the title and headnote of a position at the Department of Labor from Private Secretary to the Deputy Under Secretary for Economic Policy Review to Private Secretary to the Deputy Assistant Secretary for Policy Evaluation and Research to reflect the current title of the supervisor and an organizational redesignation. Appointments may be made to these positions without examination by the Commission.

EFFECTIVE DATES: Department of Labor—August 23, 1978; Export-Import Bank of the United States—August 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, the headnote of 5 CFR 213.3315 (j) and (j)(1) and 213.3342(b) are amended as set out below:

§ 213.3315 Department of Labor.

* * * * *

(j) *Office for Policy Evaluation and Research.*

(1) One private secretary to the Deputy Assistant Secretary for Policy Evaluation and Research.

* * * * *

§ 213.3342 Export-Import Bank of the United States.

* * * * *

(b) One private secretary and one special assistant, Systems Analysis to the First Vice President.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-27845 Filed 10-2-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Treasury; Department of Commerce; Administrative Office of the U.S. Courts

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under schedule C certain positions at the Department of Treasury, Department of Commerce, and Administrative Office of the U.S. Courts because they are confidential in nature. Appointments may be made to these positions without examination by the Civil Service Commission.

EFFECTIVE DATE: September 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3305(a)(80) and 213.3314(r)(12) are added and 213.3372 is amended as set out below:

§ 213.3305 Department of Treasury.

(a) *Office of the Secretary.* * * *

(80) One special assistant to the Assistant Secretary (Domestic Finance).

* * * * *

§ 213.3314 Department of Commerce.

(r) *National Oceanic and Atmospheric Administration.* * * *

(12) One deputy director to the Director, Office of Congressional Liaison.

* * * * *

§ 213.3372 Administrative Office of the U.S. Courts.

(a) *Office of the Director.*

(1) One legislative liaison officer.

(2) One legislative analyst/adviser.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-27843 Filed 10-2-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Executive Office of the President; Department of Energy; Small Business Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under schedule C certain positions in the Executive Office of the President, Department of Energy, and Small Business Administration because they are confidential in nature. Appointments may be made to these positions without examination by the Civil Service Commission.

EFFECTIVE DATE: September 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3303(a)(1) and 213.3331(h)(1) are amended and 213.3332(j) is added as set out below:

§ 213.3303 Executive Office of the President.

(a) *Office of Management and Budget.*

(1) Five secretaries to the Director.

* * * * *

§ 213.3331 Department of Energy.

* * * * *

(h) *Office of the Assistant Secretary for Conservation and Solar Applications.*

(1) One confidential assistant (secretary), one staff assistant, and one executive assistant to the Assistant Secretary.

* * * * *

§ 213.332 Small Business Administration.

* * * * *

(j) One special assistant to the Director, Office of Public Communications.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-27841 Filed 10-2-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Harry S. Truman Scholarship Foundation, National Transportation Safety Board

AGENCY: Civil Service Commission.

AGENCY: Final rule.

SUMMARY: This amendment to schedule C excepts certain positions from competitive status at the Harry S. Truman Scholarship Foundation and the National Transportation safety Board because they are confidential in nature. Appointments may be made to these positions without examination by the Commission.

EFFECTIVE DATE: Harry S. Truman Scholarship Foundation—August 30, 1978, National Transportation safety Board—August 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3363(b) is added, 213.3396(a)(3) is amended, and 213.3396(b)(1) is revoked as set out below:

§ 213.3363 Harry S. Truman Scholarship Foundation.

* * * * *

(b) One Secretary (Steno) to the executive Secretary.

* * * * *

§ 213.3396 National Transportation Safety Board.

(a) *Office of the Chairman.* * * *

(3) Two Secretaries (Steno) to the Chairman.

(b) *Office of the Managing Director.*

(1) (Revoked)

* * * * *

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-27840 Filed 10-2-78; 8:45 am]

[3410-05]

Title 7—Agriculture

Chapter XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—EXPORT PROGRAMS

[Amdt. 7]

PART 1488—FINANCING OF SALES OF AGRICULTURAL COMMODITIES

Subpart A—Financing of Export Sales of Agricultural Commodities From Private Stocks Under CCC Export Credit Sales Program (GSM-5)

Miscellaneous Amendments

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This amendment clarifies the CCC Export Credit Sales Program (7 CFR Part 1488) regulations to make it clear that U.S. banks and branch banks shall be liable without regard to risk for payment of bank obligations confirmed by them if such confirmations are made without regard to risk.

EFFECTIVE DATE: October 3, 1978.

FOR FURTHER INFORMATION CONTACT:

L. T. McElvain, telephone: 202-447-3224.

ADDRESS: Commercial Export Programs, Office of the General Sales Manager, U.S. Department of Agriculture, 14th Street and Independence Avenue, SW., Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This amendment to the CCC Export Credit Sales Program makes it clear that U.S. banks and branch banks shall be liable without regard to risk for payment of bank obligations confirmed by them if such confirmations are made without regard to risk. Since the amendment is merely for clarification of the regulations, it is hereby found and determined that compliance with the procedure in Executive Order 12044 is unnecessary. Therefore, this amendment is issued without compliance with such procedure.

FINAL RULE

Accordingly, Part 1488 of 7 CFR containing the terms and conditions of the CCC Export Credit Sales Program Regulations (GSM-5) (42 FR 10999, corrected at 42 FR 13535 and 42 FR 13561, and amended at 42 FR 27569, 42 FR 30833, 42 FR 57949, 43 FR 1786, 43 FR 25991 and 43 FR 29932), is hereby amended as follows:

§ 1488.12 [Amended]

In § 1488.12, paragraph (a) is amended by (i) adding after the words "confirmed by them" the words "without regard to risk" and (ii) adding before the period at the end of paragraph (a) the words "or (iii) as provided in paragraphs (c) and (d)."

(Sec. 5(f), 62 Stat. 1072 (15 U.S.C. 714c); sec. 4, 80 Stat. 1528 (7 U.S.C. 1707))

Signed at Washington, D.C., on September 26, 1978.

KELLY HARRISON,
Vice President, Commodity Credit Corporation and General Sales Manager, Office of the General Sales Manager.

[FR Doc. 78-27926 Filed 10-2-78; 8:45 am]

[6355-01]

Title 16—Commercial Practices

SUBCHAPTER C—FEDERAL HAZARDOUS SUBSTANCES ACT REGULATIONS

PART 1505—REQUIREMENTS FOR ELECTRICALLY-OPERATED TOYS OR OTHER ELECTRICALLY-OPERATED ARTICLES INTENDED FOR USE BY CHILDREN

Amendments to Power Cord Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission amends the Requirements for Electrically-Operated Toys or Other Electrically-Operated Articles Intended for Use by Children (16 CFR Part 1505). The amendment will allow the use of several types of acceptable cords with handheld educational or hobby-type electrical products intended for heating, such as woodburning tools, rather than the one type cord previously specified in the regulation. The type cord used will depend on the weight of the product. In addition, the Commission amends the regulation to clarify that cords can be no smaller than No. 18 AWG (American wire gauge) in conductor cross sectional area for all electrically-operated toys or other electrically-operated articles intended for use by children, to provide adequate short circuit protection against fire and shock.

EFFECTIVE DATE: The amendments are effective October 3, 1979. The amendments are applicable to all subject products introduced into interstate commerce on or after the effective date.

FOR FURTHER INFORMATION CONTACT:

David W. Thome, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207 301-492-6400.

SUPPLEMENTAL INFORMATION: In the FEDERAL REGISTER of March 14, 1978 (43 FR 10575), the Consumer Product Safety Commission (CPSC) proposed for public comment amendments to 16 CFR Part 1505, Requirements for Electrically-Operated Toys or Other Electrically-Operated Articles Intended for Use by Children. The proposed amendment to § 1505.5(e)(5) would allow the use of several types of cords, depending upon the product's weight, for hand-held educational or hobby-type products intended for heating, such as woodburning tools.

The purpose of the proposed amendment is to require lighter, more flexible cords to be used on such products weighing ½ pound or less to reduce the cord's influence on the possibility of the product's tipping over. Cords with greater insulation would be required on those products weighing more than ½ pound. The Commission believes this amendment is necessary if these electrical toys are not to present an unreasonable risk of personal injury due to a thermal hazard caused by their tipping over.

§ 1505.5(e)(5) of the standard required in part that power cords on toys be type SP-2 as defined in the National Electric Code (NEC) or its equivalent, or a heavier general-use type. A cord equivalent to SP-2, or a heavier general use type would under the NEC, be a cord having a wire gauge no smaller than 18 AWG. The Commission in the proposal stated it was amending the standard to require the use of cords having a minimum wire gauge of 18 AWG. In fact, the amendment only clarifies that 18 AWG is the smallest size wire gauge that could be used since the regulation in effect already required a minimum 18 AWG wire. Wire gauges smaller than 18 AWG create the possibility that the cord, in the event of a short circuit, will smolder and burn and expose live parts rather than opening a fuse or circuit breaker. The Commission believes the requirement for a minimum 18 AWG cord is necessary if electrically-operated products intended for use by children are not to present an unreasonable risk of personal injury due to electric shock and fire hazards.

COMMENTS RECEIVED

The proposal of March 14, 1978 invited interested persons to submit written comments on or before May 15, 1978. Two comments were received: One from a manufacturer and one from a professional engineer.

The manufacturer stated that few, if any, retailers buy or sell electrical products that are not UL approved. Because of this, the commenter suggested that, since the Commission's proposed amendment is based on current UL standards, the requirement should be changed to permit any cords complying with current UL standards.

The Commission acknowledges that the amendments are based on the current cord requirements in the Underwriters Laboratories standard for electric heating applicances, UL 499. However, while all the cord types specified in the amendment set forth below are approved by UL, the converse is not true. There are some cords included in UL 499 for use on hand-held hobby products weighing less than ½ pound that would not be permitted by this amendment. These cords, types TP, TPT and XT, may have current carrying conductors smaller than 18 AWG, the minimum believed by the Commission to be necessary to insure adequate short circuit protection. In addition, it is the Commission's policy to incorporate in its regulations only requirements in a voluntary standard effective as of a particular date. Amendments to voluntary standards that have been referenced in Commission regulations will be considered by the Commission and amendments to its regulations will be proposed as appropriate. If this procedure were not followed, Commission regulations could change without action by the Commission and without notice to the public and an opportunity for public comment.

The professional engineer commented that the requirement for cord selection based on the product's weight fails to anticipate design configurations such as a shift of the center of gravity or guarding that could eliminate tipover problems. The commenter stated that a product weighing more than ½ pound may have its weight distributed in such a way that it may have a greater potential for tipover than a lighter product.

The requirement for lighter, more flexible cords (Types SP-1 SPT-1 and HPD) for appliances weighing ½ pound or less is intended to reduce risk of personal injury from fire or shock by minimizing the influence of the cord on the possibility of the appliance's tipping over. The regulation does not preclude any design concepts, such as shifting the center of gravity or providing guards, that could also address tipover problems. For heavier products, the Commission believes the protection provided by cords with thicker insulation than types SP-1 and SPT-1 overrides the remote possibility that a design feature of a heavier product would present a greater tipover hazard than lighter products.

This commenter also stated that the proposed amendment to section 1505.5(e)(6), requiring a minimum of 18 AWG rather than 20 AWG, is not supported by test data.

The amendment to the regulation does not impose a new requirement upon manufacturers. No. 20 AWG wire is not allowed in electrically operated toys under the existing regulation. No. 18 AWG wire conductor is one trade size larger than No. 20 AWG. No 20 AWG wire in laboratory tests conducted by the Commission has smoked and burned under conditions forseeable with electric toys. It is the Commission's view that No. 18 AWG is necessary to assure that under the anticipated conditions of use of hand-held products where there is considerable flexing of the cord in close proximity to the child, the fuse or circuit breaker would trip in the event a short circuit occurs to avoid a burn or fire. The Commission believes that reducing the conductor size a minimum of 18 AWG to 20 AWG, as the commenter suggests would be contrary to current safe practices intended to provide protection from short circuits since a product with a power cord having conductors smaller than 18 AWG could, in a short circuit situation, overheat and cause a fire without causing the fuse or circuit breaker to trip.

ENVIRONMENTAL CONSIDERATIONS

The CPSC's interim environmental review procedures, 16 CFR 1021.5, provide that an environmental review is generally not required for amendments to an existing standard that do not alter the principal purpose or effect of the standard. The amendments below do not alter the principal purpose or effect of the electrical toy regulations. They allow manufacturers to use a variety of cords on products subject to the amendments rather than just one type cord. The Commission stated in its proposal that it did not believe there would be any significant environmental effects which would necessitate an environmental review from the promulgation of these amendments. No comments were received relevant to this issue and no information is available to the Commission that would alter this position.

CONCLUSION

The Commission has considered the potential thermal hazard presented by hand-held educational or hobby-type products intended for heating, such as woodburning tools, due to tipping over because of the influence of the electrical cord, and it has considered the potential or electric shock and fire hazards if cords smaller than 18 AWG are used on electrically-operated products intended for use by children. The Commission has also considered the comments received in response to its March 14, 1978 proposal and has concluded that the amendments set forth below are necessary.

Accordingly, pursuant to provisions of the Federal Hazardous Substances Act section 2 (f)(1)(D), (r), (s), (t), 3(e)(1), 74 Stat. 372, 374, 375, as amended, 83 Stat. 187-189, 15 U.S.C. 1261, 1262) and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92-573, section 30(a), 86 Stat. 1231, 15 U.S.C. 2079(a)), the commission amends title 16 CFR Part 1505 as follows:

1. Section 1505.5(e) (5) and (6) are amended to read as follows:

§ 1505.5 Electrical design and construction.

* * * * *

(e) *Power supply connections (cords and plugs).* * * *

(5) A flexible electrical power cord provided on a toy shall be type SP-2 (as defined in the "National Electrical Code," Chapter 4, article 400, pages 230-241 (1978), [1] [2] published by the National Fire Production Association), or its equivalent, or a heavier general-use type, and shall not be less than 5 feet nor more than 10 feet in length when measured as the overall length of the attached cord outside the enclosure of the toy, including fittings up to the face of the attachment-plug cap. However, hand-held educational or hobby-type products intended for heating, such as woodburning tools, shall use one of the type cords designated below, in accordance with the weight of the product without the cord:

Weight of appliance (without cord) and cord type

½ lb. (0.227 kg) and lighter: SP-1, SPT-1, HPD.

Heavier than ½ lb. (0.227 kg): SP-2, SPT-2, SV, SVO, SVT, SVTO, HPD, HPN, SJ, SJO, SJT, SJTO.

(6) A flexible cord and plug shall have a current-carrying capacity of not less than the ampere rating of the

[1] The cord types are defined in the "National Electrical Code" (NEC) Chapter 4, article 400, pages 230-241 (1978), published by the National Fire Protection Association. The definitions of the cord types in chapter 4 of the NEC are hereby incorporated by reference. Copies of the 1978 edition of the NEC may be obtained from the National Fire Protection Association, 470 Atlantic Ave., Boston, Mass. 02210.

[2] Note: Incorporation by reference provisions approved by the Director, Office of the Federal Register on August 3, 1978, and the referenced material is on file in the Federal Register Library.

toy, and the conductor of the cord shall have a cross sectional area no less than No. 18 AWG (American wire gauge).

* * * * *

Effective date: These amendments are effective October 3, 1979.

The Commission had suspended the application of the existing 16 CFR 1505.3(e)(5) regarding the type of cord to be used with hand-held educational or hobby-type products, such as wood-burning tools (39 FR 2611, January 23, 1974). This suspension remains in effect until the effective date of these amendments.

(Sections 2 (f)(1)(D), (r), (s), (t), 3(e)(1), 74 Stat. 372, 374, 375, as amended, 83 Stat. 187-189 (15 U.S.C. 1261, 1262); section 30(a), 86 Stat. 1231 (15 U.S.C. 2079 (a)).)

Dated: September 28, 1978.

SADYE E. DUNN,
Consumer Product Safety Commission.

[FR Doc. 78-27867 Filed 10-2-78; 8:45 am]

[6740-02]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION

SUBCHAPTER E—REGULATIONS UNDER THE NATURAL GAS ACT

PART 154—RATE SCHEDULES AND TARIFFS

[Docket No. RM78-23]

Interstate Pipeline Recovery of State of Louisiana First Use Tax

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: This rule establishes certain procedures for recovery of the Louisiana first use tax by interstate natural gas pipelines. On July 6, 1978, the Governor of Louisiana signed into law the tax which is proposed to become effective April 1, 1979. The Commission has directed the Commission's Solicitor to challenge the constitutionality of the tax in Federal District Court and to seek to enjoin collection of the tax by Louisiana pending completion of judicial review. The rule sets forth the rate treatment and accounting procedures to be followed during the pendency of the litigation.

EFFECTIVE DATE: August 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles E. Bullock, Office of General Counsel, Federal Energy Regulatory Commission, Washington, D.C. 20426, 202-275-4232.

On July 6, 1978, the Governor of Louisiana signed into law the Louisiana first use tax. The tax of 7 cents per Mcf would be imposed on certain gas in interstate commerce which passes through the State of Louisiana. The tax is proposed to become effective as of April 1, 1979. Therefore the Commission has determined that certain procedures should be established for recovery of this tax by interstate natural gas pipelines. It is particularly appropriate to establish such procedures in light of the fact that this Commission on August 16, 1978, directed the Commission's Solicitor to challenge the constitutionality of the tax in Federal District Court and to seek to enjoin collection of the tax by Louisiana pending completion of judicial review. In addition, the Commission authorized the Solicitor to seek intervention, or to otherwise set forth the views of this Commission, in any other forums where the constitutionality of the tax may be challenged.[1]

Should the collection of the tax be enjoined by the courts during the entire period the validity of the tax is pending in court, no collection of such amounts by pipelines in their jurisdictional rates would be permitted by this Commission until such time as the tax is found to be lawful by a final and nonappealable court order. In that event, the pipelines shall keep account of their contingent tax liability during the pendency of court review. Appropriate rate relief will be granted if the tax is ultimately held to be valid and constitutional.

Should the tax be required to be paid by the pipeline during the pendency of the litigation, the Commission requires that the pipelines record in a separate account the amounts paid, plus carrying charges at 9 percent per annum or such other rate as the Commission may establish. No costs reflecting the tax shall be permitted in the pipelines' rates until such time as the tax is determined to be constitutional and valid by a final and nonappealable order.

The Commission is concerned that there may not be an adequate remedy in Louisiana State law to permit pipelines to recover amounts paid (even under protest) in the event the tax is collected during the period of litigation and is later found to be unconstitutional. However, if the interstate pipelines subject to the tax can show that (1) they have undertaken those legal actions available to them to determine the constitutionality of the tax and (2) they in fact can recover the amounts paid from Louisiana in the event the tax is paid under protest and later found to be invalid, the Commission will permit the filing of applications under which the pipelines would collect the tax, subject to refund, pursuant to a temporary tracking provision similar to a purchased gas adjustment clause. Any funds collected pursuant to such a tracking provision must be escrowed pending the outcome of the court litigation. Upon a final and nonappealable court order finding the tax invalid, the funds in the escrow account shall be promptly refunded to the pipelines' customers. Such applications would only be permitted where the tax is required to be paid by the pipelines during the pendency of the court litigation.

It is important that this order be issued without notice and public comment procedures to put pipelines on notice that they will not be permitted to reflect the Louisiana first use tax in general section 4 rate cases (which usually involve a 30-day notice period plus a 5-month suspension by the Commission) in order to collect the Louisiana first use tax. If pipelines were planning to file general rate cases to collect the tax, they would have to commence preparation of such cases immediately in order to make the rates effective by April 1, 1979, which is the proposed effective date of the tax.

The Commission finds: For the reasons discussed in the body of this order good cause exists to issue this rule without notice and public comment procedure. For the same reasons there is good cause to make this regulation effective immediately.

The Commission, acting pursuant to authority granted by the Natural Gas Act, as amended, particularly sections 4, 5 and 16 thereof (52 Stat. 822, 824, 830; 56 Stat. 83, 84; 61 Stat. 459; 76 Stat. 72; 15 U.S.C. 717c, 717f, 717o) and in accordance with sections 552 and 553 of title 5 of the United States Code, orders:

(A) Section 154.38 is amended by adding a new paragraph (h) to read as follows:

§ 154.38 Composition of rate schedule.

* * * * *

(h) *Pipeline recovery of the State of Louisiana first use tax.* (1) Subject to the conditions set forth in subparagraph (2), no pipeline shall be permitted to reflect costs associated with the Louisiana first use tax in its rates prior to the date the tax is determined to be valid and constitutional by a final and nonappealable court order. (2) Should a pipeline be required to pay the Louisiana first use tax during the pendency of litigation of the constitutionality of the tax, the pipeline will be permitted to collect the tax

[1] In addition, the Commission directed the Solicitor to inform other interested Federal agencies of the Commission's decision to challenge the constitutionality of the tax.

subject to refund if it can show: (a) It has undertaken all legal action available to it to determine the constitutionality of the tax, and (b) it will be able to recover the tax paid by them to the State of Louisiana in the event the tax is declared invalid by a final, nonappealable court order. Should such a showing be made, the Commission will establish by order temporary procedures to permit pipelines to recover the taxes. Funds collected will be held in escrow and subject to refund during the pendency of litigation. Absent such a showing, the pipeline will remain subject to subparagraph (1).

(B) The order is hereby made effective upon issuance.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27828 Filed 10-2-78; 8:45 am]

[4110-07]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 16]

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Exclusion of Receipts From Lands Held in Trust for Indian Tribes From Countable Income and Resources

AGENCY: Social Security Administration, HEW.

ACTION: Final regulations.

SUMMARY: These rules exclude certain receipts distributed to members of Indian tribes from consideration as income or a resource under the Supplemental Security Income (SSI) program. The receipts are derived from certain submarginal lands conveyed to Indian tribes and held in trust by the United States. Exclusion of the receipts will preclude the denial or reduction of financial assistance or other benefits to which tribal members or households would otherwise be entitled under the Social Security Act or any other Federal or federally assisted program. The regulation implements in part section 6 of Pub. L. 94-114, October 17, 1975.

EFFECTIVE DATE: These rules shall be effective October 3, 1978. However, in accordance with the law which these rules reflect, the exclusions are effective October 17, 1975.

FOR FURTHER INFORMATION CONTACT:

Mr. S. J. Weissman, Legal Assistant, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone: 301-594-7341.

SUPPLEMENTARY INFORMATION: On April 28, 1978, these amendments to the regulations were published (43 FR 18205) as a Notice of Proposed Rulemaking.

BACKGROUND

Submarginal Indian lands were originally purchased by the United States as part of the general emergency relief measures necessitated by the severe depression of the 1930's and a series of natural disasters. These parcels were acquired under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200); the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115); and section 55 of the Act of August 24, 1955 (49 Stat. 750, 781).

Subsequent to these purchases Congress enacted legislation (the act of July 20, 1956 (70 Stat. 581), the act of August 2, 1956 (70 Stat. 941), the act of October 9, 1972 (86 Stat. 795), and section 1 of the act of October 13, 1972 (86 Stat. 806)) which conveyed in trust for certain Indian tribes some of the parcels which were purchased during the Depression. The accrued income, however, was not generally transferred to the appropriate Indian tribes.

DISCUSSION OF PUB. L. 94-114

Pub. L. 94-114 conveyed the remaining submarginal lands from the United States to the various Indian tribes to be held in trust by the United States and the accrued income of the lands previously conveyed under acts cited in the prior paragraph.

Section 5(a) of Pub. L. 94-114 provides that receipts derived from property conveyed by Pub. L. 94-114, the act of July 20, 1956, the act of August 2, 1956, the act of October 9, 1972, and section 1 of the act of October 13, 1972, which were received by the United States subsequent to such acquisition by the United States and prior to conveyance back to the Indian tribes will be deposited to the credit of the Indian tribe receiving such land. Excluded are receipts received prior to the enactment of Pub. L. 94-114 from the leasing of public domain minerals which were subject to the Mineral Leasing Act of 1920 (41 Stat. 437) as amended and supplemented. Section 5(b) provides that receipts derived by the United States subsequent to enactment of Pub. L. 94-114 from any contract, permit, or lease or otherwise will be deposited to the credit of the Indian tribes receiving such land.

Section 6 of Pub. L. 94-114 further provides that any such receipts distributed to members of Indian tribes shall not be considered income or resources or otherwise utilized as a basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled to under the Social Security Act or any other Federal or federally assisted program.

The exclusion (as authorized by Pub. L. 94-114) applies to receipts derived from lands of the following Indian tribes:

Tribe	Reservation	State
1. Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin.	Bad River.....	Wisconsin.
2. Blackfeet Tribe.....	Blackfeet.....	Montana.
3. Cherokee Nation of Oklahoma.	.....	Oklahoma.
4. Cheyenne River Sioux Tribe.	Cheyenne River.	South Dakota.
5. Crow Creek Sioux Tribe.	Crow Creek...	Do.
6. Lower Brule Sioux Tribe.	Lower Brule..	Do.
7. Devil's Lake Sioux Tribe.	Fort Totten...	North Dakota.
8. Fort Belknap Indian Community.	Fort Belknap	Montana.
9. Assiniboine and Sioux Tribes.	Fort Peck	Do.
10. Lac Courte Oreilles Band of Lake Superior Chippewa Indians.	Lac Courte Oreilles.	Wisconsin.
11. Keweenaw Bay Indian Community.	L'Anse.....	Michigan.
12. Minnesota Chippewa Tribe.	White Earth .	Minnesota.
13. Navajo Tribe.....	Navajo	New Mexico.
14. Oglala Sioux Tribe.	Pine Ridge	South Dakota.
15. Rosebud Sioux Tribe.	Rosebud	Do.
16. Shoshone-Bannock Tribe.	Fort Hall	Idaho.
17. Standing Rock Sioux Tribe.	Standing Rock.	North Dakota and South Dakota.
18. Seminole Indians.	.....	Florida.
19. Pueblos of Zia and Jemez.	.....	New Mexico.
20. Stockbridge Munsee Indian Community.	.....	Wisconsin.
21. Burns Indian Colony.	.....	Oregon.

THE FINAL REGULATIONS

Sections 416.1146(n) and 416.1236(a)(13) are being added to provide that the receipts derived from the lands described above will be excluded as income or a resource in the SSI program.

DISCUSSION OF COMMENTS

Interested persons were given the opportunity to submit, within 30 days, data, views, or arguments with regard to the proposed amendments. Three comments were received and are discussed below.