proposed by BTA is an impermissible modification of normal business practices in that it fundamentally changes Basin's relationship with BTA, it was not customary in the sale of this crude oil, and it would frustrate important objectives of the Emergency Petroleum Allocation Act of 1973, as amended, Pub. L. No. 93–159 (November 27, 1973) (EPAA).[9] Consequently, the joint venture is not entitled to acquire such volumes of crude oil for processing and marketing under the facts presented inasmuch as this acquisition of crude oil would be improper under the applicable DOE regulations.

Producers of domestic crude oil are subject to allocation regulations set forth in Subpart C of Part 211, which require the maintenance of supplier/purchaser relationships. Those regulations generally freeze "all supplier/purchaser relationships in effect under contracts for sales, purchases and exchanges of domestic crude oil on January 1, 1976," or which are begun thereafter through a first sale that is exempt from this rule. 10 CFR 211.63(b).[10]

In addition to requiring the maintenance of supplier/purchaser relationships with respect to sales of domestic crude oil, the regulations affect relations between producers, resellers, and refiners of crude oil. Section 210.62(a) directs that suppliers of crude oil deal with their purchasers according to normal business practices and that no supplier "modify any normal business practice so as to result in the circumvention of any provision of this chapter." Section 210.62(b) prohibits any preference or sales treatment which frustrates or impairs the purposes of the price and allocation regulations or of the EPAA. Section 210.62(c) provides in relevant part:

Any practice which constitutes a means to obtain a price higher than is permitted by the regulations in this chapter *or to impose terms or conditions not customarily imposed upon the sale of an allocated product* is a violation of these regulations. (Emphasis added.)

Subsection (c) makes clear that the imposition of terms or conditions not customarily imposed upon the sale of an allocated product is also a violation of this regulation.

That BTA intends to sever its current supplier/purchaser relationship with Basin and to create a new one (see 10 CFR 211.63(b)(2)) does not relieve BTA of the requirement of Section 210.62 that the customary business practices established in the original relationship be continued. Actions that circumvent or contravene the requirements of any DOE regulation are broadly prohibited by Section 205.202, which supplements Subpart C of Part 211, and therefore the new relationship may not be substituted simply to avoid that obligation. Accordingly, the changes proposed by BTA are to be considered as modifications of its existing supplier/purchaser relationship with Basin.

The modification of the relationship between BTA and Basin is not a mere change without significance, but on the contrary is inherently significant in that it would eliminate a fundamental and essential aspect of Basin's business. Basin currently purchases the subject crude oil from BTA with a free and clear title and markets that oil to several purchasers with whom it has existing supplier/purchaser relationships pursuant to Section 211.63(b). BTA has not customarily designated Basin's purchasers but now proposes to impose the fundamental condition that all future supplies of crude oil be resold to the joint venture in which it is a participant. This modification of BTA's normal business practices would supplant Basin's crude oil resale operations with an arrangement designed solely to provide BTA with the economic benefits of obtaining refined petroleum products for resale through its participation in the joint venture. As set forth in the request for interpretation, the agreement proposed by BTA would impair competition fostered by DOE regulations in that it would totally eliminate any opportunity for Basin's current purchasers, subsequent purchasers, and any other potential purchasers, to obtain supplies of this crude oil from Basin.

The EPAA was enacted in response to the threat presented to the petroleum industry and to the national economy by shortages of domestic and imported crude oil, residual fuel oil, and refined petroleum products.[11] It was determined that such shortages were likely to lead to dislocations in the national distribution system and that regulatory authority was necessary to minimize the resulting impact.[12] Thus, while the overall objectives of the EPAA require the application of certain restrictions on the petroleum industry, it is also the purpose of that Act to preserve competition. Accordingly, the EPAA authorizes allocation and price regulations, and § 4(b)(1)(D) provides as a specific objective of those regulations:

(D) preservation of an economically sound and competitive petroleum industry, including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, nonbranded independent marketers, and branded independent marketers.

The EPAA further states that the regulations issued thereunder should provide for the allocation of crude oil to provide adequate supplies to refineries and to provide for equitable distribution of crude oil at equitable prices, in a manner designed to minimize "economic distortion, inflexibility, and unnecessary interference with market mechanisms."[13]

BTA's proposed arrangement therefore takes on added significance in light of the findings and objectives of the EPAA and the Mandatory Petroleum Price and Allocation Regulations which are intended to prevent the harmful effects of inadequate supplies of crude oil, residual fuel oil, and refined petroleum products. In the proposed arrangement, BTA seeks to exercise the leverage of its position as the owner of a supply of crude oil in order to modify its business relationship with Basin and to control subsequent distribution of that oil[14] as well as the products to be derived therefrom. Thus, the modification contravenes the purposes of the EPAA and the regulations and falls within the prohibitions of § 210.62.

As presented by Basin, BTA's proposal would result in discrimination among Basin's purchasers in violation of § 210.62(b) in that it would provide for dealing with one purchaser, the joint venture, on terms that preclude dealing with other purchasers. The proposed agreement would obligate Basin to extend an absolute preference to the joint venture through a condition imposed by BTA, while BTA itself would be a partner in that venture. The resulting arrangement would have the effect of frustrating or impairing the purposes of the EPAA and the DOE regulations as previously described.

Based on the foregoing analysis the proposed arrangement between BTA and Basin would significantly modify the applicable normal business practices because it would require that Basin eliminate its current purchasers, their subsequent purchasers, and other potential purchasers from the chain of supply of BTA's crude oil. The restraint that would be imposed on Basin, and the resulting barrier to other purchasers, would therefore violate Section 210.62 (a), (b) and (c). BTA may not sell its crude oil to Basin on condition that such crude oil be resold to a designated joint venture inasmuch as the first sale of that crude oil in this manner would not be in accordance with § 210.62.

Issued in Washington, D.C., on March 31, 1980.

Thomas C. Newkirk,

Deputy General Counsel for Regulation.

[9] 15 U.S.C. § 751 *et seq.* (1976).

[10] Pursuant to § 211.63(d), there are various methods by which a supplier/purchaser relationship may be terminated. Although Basin anticipates that all terminations of supplier/purchaser relationships for the crude oil to be supplied to the joint venture would be in compliance with § 211.63(d)(1)(i), it should be noted that the requirements of that subsection must be fully met. As set forth in *Arizona Fuels Corporation*, Interpretation 1979–18, 44 FR 60266 (October 19, 1979), consent to termination of a supplier/purchaser relationship by a purchaser under § 211.63(d)(1)(i) must be in writing, giving notice of the termination date, and all subsequent purchases of the crude oil involved must consent in writing to that termination. All such consents must be express and knowing.

[11] EPAA, § 2(a).

[12] EPAA, § 2(b).

[13] EPAA, § 4(b)(1) (E), (F) and (I).

[14] Possible anticompetitive effects of vertical restraints, such as limitations by a seller on its customer's choice of purchasers in the resale of a product, have been subjected to close scrutiny under the antitrust laws. *See, e.g., Continental T.V., Inc.* v. *G.T.E. Sylvania, Inc.*, 433 U.S. 36 (1977); *United States* v. *Arnold, Schwinn & Co.*, 388 U.S. 365 (1967); *United States* v. *Bausch & Lomb Optical Co.*, 321 U.S. 707 (1944).

Appendix B.—*Cases Dismissed*

File No.	Requester	Category	Date dismissed
A-525	American Car Rental Association	Price	Feb. 13.
A-463	San Jose Peace Officer's Association	Price and Allocation	Mar. 14.
A-284	Texaco, Inc.	Allocation	Mar. 10.

[FR Doc. 80-11411 Filed 4-14-80; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL ELECTION COMMISSION

11 CFR Chapter I

[Notice 1980-14]

Presidential Election Campaign Fund; Presidential Primary Matching Fund

AGENCY: Federal Election Commission.

ACTION: Transmittal of Regulations to Congress.

SUMMARY: FEC regulations governing the administration of the Presidential Primary Matching Payment Account provided for in Chapter 96 of Title 26, United States Code have been revised. The revised regulations at 11 CFR Chapter I have been transmitted to Congress pursuant to 26 U.S.C. 9039(c). Under the following revisions, the Commission may suspend matching fund payments to a candidate who knowingly, willfully and substantially exceeds expenditure limitations, and that candidate would be prohibited from receiving any further payments. Current regulations provide that the Commission may suspend matching fund payments to a candidate who knowingly and willfully exceeds expenditure limitations, but payments to that candidate would be resumed if he or she repaid an amount equal to the excessive expenditure and paid or agreed to pay any civil or criminal penalties resulting from the violation.

EFFECTIVE DATE: Further action, including the announcement of an effective date, will be taken by the Commission after these regulations have been before Congress 30 legislative days in accordance with 26 U.S.C. 9039(c).

FOR FURTHER INFORMATION CONTACT: Patricia Ann Fiori, Assistant General Counsel, 1325 K Street NW., Washington, D.C. 20510 (202) 523-4143.

SUPPLEMENTARY INFORMATION: The Commission on November 5, 1979, published a Notice of Proposed Rulemaking (44 FR 5594). No comments were received on the proposed regulations.

Explanation and Justification of Revised Regulations Governing Suspension of Payments From the Presidential Primary Matching Fund

Under the proposed revisions to the Presidential Primary Matching Fund regulations, the Commission may suspend payments to a candidate who, after certification for matching funds, knowingly, willfully and substantially exceeds the expenditure limitations at 11 CFR 9035. A candidate whose payments are suspended will, under the proposed revisions, be ineligible to receive any further payments.

Regulations promulgated on May 7, 1979, provide that the Commission may suspend matching payments to a candidate who knowingly and willfully exceeds expenditure limitations after certification for public funds (11 CFR 9033.9).[1] However, such a candidate may re-establish eligibility by repaying an amount equal to the excessive expenditure and by paying or agreeing to pay any civil or criminal penalties resulting from the violation of the limitation. Under the proposed revisions, the Commission may suspend payments to a candidate only if he or she knowingly, willfully *and substantially* exceeds expenditure limitations. In addition, under the proposed revisions, a candidate will not be permitted to re-establish eligibility after payments have been suspended for exceeding expenditure limitations.

Statutory provisions at 26 USC 9033(b)(1) state that in order to receive matching funds, a candidate must certify to the Commission that the candidate and his or her authorized committees "will not incur qualified campaign expenses in excess of the limitations of such expenses under [26 USC] section 9035." A candidate who exceeds the expediture limitations of 26 USC 9035 after certifying that he or she will not exceed those limitations violates a basic condition of eligibility for matching funds and that candidate's eligibility for continued receipt of payments is thereby terminated. Such a result is consistent with the statutory provisions establishing the public financing system for presidential primary candidates, as well as with the legislative history of those provisions.

The statutory provisions governing entitlement to matching funds expressly provide that a candidate must establish his or her eligibility for those funds by meeting certain conditions. The conditions are set forth at 26 USC 9033, which provides that in order to be eligible for payments, a candidate must make certain agreements and certifications. Further, it is clear that the statute empowers the Commission to determine whether a candidate has established eligibility by meeting the specific conditions, and a candidate who does not meet those conditions is ineligible to receive matching funds. (See *Committee to Elect Lyndon LaRouche* v. *FEC.* Fed. Elec. Camp. Fin. Guide (CCH) ¶ 9091 (D.C.Cir. 1979), *cert. denied,* — US — (February 19, 1980)(No. 79-801)).

As a condition precedent to the receipt of federal matching funds, a candidate must, under 26 USC 9033(b)(1), certify that he or she will not exceed the expenditure limitations applicable to publicly financed candidates. While the statute does not specifically authorize the suspension of payments to a candidate who violates a condition of eligibility by exceeding expenditure limitations, the Commission's power to suspend is implied from its express authority to determine initial eligibility. Because eligibility is a continuing requirement, the power to determine initially whether eligibility has been established necessarily implies the authority to monitor eligibility. Section 9033 specifically sets forth conditions of eligibility. These conditions consist of a series of agreements and certifications which the candidate must make prior to receiving matching funds. Where a candidate fails to abide by an agreement or certification which relates to a requirement central to the Act— such as the expenditure limitations— that candidate is failing to fulfill the basic conditions for eligibility to continued receipt of matching payments. In such a situation, the Commission has the authority to revoke that candidate's eligibility.

Moreover, without the authority to suspend payments to a candidate who is violating the conditions of eligibility, the Commission would be unable to protect the integrity of the public financing system. Allowing candidates to exceed expenditure limitations while continuing to receive matching funds undermines the equal protection of the public financing system. A central concept of the statutory provisions establishing that system is equal treatment of all candidates. The candidate who abides by expenditure limitations would suffer a great disadvantage if another candidate were permitted to exceed those limitations and still receive public funds. To prevent this inequitable result,

[1] Current regulations at 11 CFR 9033.3 also provide that a candidate is ineligible for matching funds if he or she has knowingly, willfully and substantially exceeded the expenditure limitations prior to certification.

matching fund payments must be permanently suspended to any candidate who exceeds expenditure limitations.

Finally, permanent suspension of matching fund payments to a candidate who has knowingly, willfully and substantially exceeded expenditure limitations is consistent with the legislative history of the public financing system for presidential candidates. The legislative history of the matching fund system indicates that the primary purpose of that legislation was to curb "abuses by special interest groups and big money . . . in connection with campaigns to the office of President".[2] Congress sought to further this purpose by "drastically reducing the amounts which may be expended by the candidate".[3] It would thus run counter to the very purpose of the public financing statute to allow candidates who knowingly, willfully and substantially exceed expenditure limitations to subsequently receive public funds. Such an outcome would permit a candidate to make vast amounts of campaign expenditures, and nevertheless receive matching payments, thereby defeating the basic purpose underlying the enactment of public financing.

11 CFR 9033.9 is amended to read as follows:

PART 9033—ELIGIBILITY

* * * * *

§ 9033.9 Suspension of payments.

(a) If the Commission has reason to believe that a candidate or his or her authorized committee(s) has knowingly, willfully and substantially failed to comply with the disclosure requirements of 2 USC 434 and 11 CFR Part 104, or that a candidate has knowingly, willfully and substantially exceeded the expenditure limitations at 11 CFR 9035, the Commission may make an initial determination to suspend payments to that candidate.

(b) The Commission shall notify the candidate of its initial determination, giving the legal and factual reasons for the determination and advising the candidate of the evidence upon which its initial determination is based. The candidate shall be given an opportunity within 20 days of the Commission's notice to comply with the above cited provisions or to submit written legal or factual materials to demonstrate that he or she is not in violation of those provisions.

(c) The Commission shall consider any written, legal or factual materials submitted by the candidate in making its final determination. Such materials may be submitted by counsel if the candidate so desires.

(d) Suspension of payments to a candidate will occur upon a final determination to suspend payments by the Commission. Such final determination shall be accompanied by a written statement of reasons for the Commission's action. This statement shall explain the reasons underlying the Commission's determination and shall summarize the results of any investigation upon which the determination is based.

(e)(1) a candidate whose payments have been suspended for failure to comply with reporting requirements may become entitled to receive payments if he or she subsequently files the required reports and pays or agrees to pay any civil or criminal penalties resulting from failure to comply.

(2) a candidate whose payments are suspended for exceeding expenditure limitations shall not be entitled to receive further matching payments under 11 CFR 9034.1.

Dated: April 9, 1980.

Robert O. Tiernan,

Chairman, Federal Election Commission.

[FR Doc. 80-11404 Filed 4-14-80; 8:45 am]

BILLING CODE 6715-01-M

[2] H.R. Rep. No. 93-1239, 94th Cong., 2nd Sess. 13 (1974).

[3] S. Rep. No. 93-689, 94th Cong., 2nd Sess. 5 (1974).

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Reg. E; Docket No. R-0272]

Electronic Fund Transfers; Definitions and Rules of Construction Documentation of Transfers

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is adopting in final form amendments to § 205.9 of Regulation E (Electronic Fund Transfers) to (1) exempt deposits of cash, checks, drafts, and similar paper instruments at electronic terminals from the requirement that the terminal location be disclosed on the periodic statement, (2) provide that institutions may disclose the charges for account maintenance *or* the charges for electronic fund transfers on periodic statements, (3) permit financial institutions operating certain cash-dispensing terminals to mail a terminal receipt on the next business day following the day the transfer was initiated, until financial institutions replace those terminals, and (4) delay until August 10, 1980, the requirements that the terminal location and name of any third party to or from whom funds were transferred be disclosed on the periodic statement. These amendments are intended to facilitate compliance with the requirements of Regulation E, while not diminishing the consumer protections that it provides. The Board is also issuing an analysis of the economic impact of the amendments adopted at this time.

EFFECTIVE DATE: May 10, 1980.

FOR FURTHER INFORMATION CONTACT: Regarding the regulation: Dolores S. Smith, Section Chief, or Lynne B. Barr, Senior Attorney (202-452-2412), Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Regarding the economic impact analysis: Frederick J. Schroeder, Economist (202-452-2584), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: (1) *Sections 205.2(g) and 205.9(b)(1)(iv)—Definition of electronic fund transfer and disclosure of terminal location.* The Board has been asked to reconsider its opinion that deposits of cash, checks, drafts, or similar paper instruments at electronic terminals are encompassed by the definition of "electronic fund transfer" in § 205.2(g), and that the requirements of the Act and regulation apply to them. Commenters contended that such transfers are not initiated electronically and should therefore be excluded. Commenters also stated that operational problems make it difficult and costly to treat deposits at ATMs and other terminals as electronic fund transfers.

The Board believes that the protections provided by the Act, particularly error resolution procedures, should be given to consumers using this type of service. It remains the Board's opinion that deposits at terminals are electronic fund transfers within the meaning of the Act. This view is supported by the Report of the Senate Committee on Banking, Housing and Urban Affairs (Report No. 95-915) which states that "automated teller machine transactions, such as cash withdrawals or deposits" are encompassed within the definition.

Certain specific operational problems were raised by the commenters. First, concern was expressed that all accounts held at a financial institution will be subject to the regulatory requirements (such as initial disclosures, documentation requirements, and error resolution) because it is possible for a consumer to deposit money to accounts for which there is no EFT agreement. It is the Board's opinion that a deposit by a consumer at an electronic terminal does not make an account subject to the requirements of Regulation E, absent an agreement (by encoding accounts on the access device, marketing the deposit service, or specific agreement) between the consumer and the financial institution to permit deposits to the account. The Board's position on this issue is similar to that taken with respect to which accounts are subject to the requirements of § 205.9(b) (see 45 FR 8250). Institutions may limit the accounts to which deposits may be made by consumers and thus limit their exposure. Institutions may also limit the permissible dollar amount of deposits, provided disclosure is made pursuant to § 205.7(a).

Another concern of financial institutions relates to the difficulty of processing these deposits. It is the Board's understanding that deposits at terminals, because the amount of the deposit must be verified and availability of the funds determined, are generally processed with other deposits rather than with other terminal transfers, and that the terminal location is generally not captured. After the effective date of the regulation, the financial institution would have to capture and store the terminal location for disclosure on the periodic statement. In order to do so, according to commenters, institutions would have to verify and manually process ATM deposits separately from, not only other ATM transfers, but also other deposits. The Board is concerned that these increased processing steps and costs would result in loss of depository services to consumers and interfere with the development of such EFT services; it has therefore adopted an amendment to § 205.9(b)(1)(iv) exempting deposits at terminals from the requirement that the terminal location be disclosed on the periodic statement. It should be noted that the Board considers this an interim exemption that will become unnecessary as methods to process these transfers electronically become readily available to financial institutions.

The Board believes that this amendment will not decrease the significant consumer protections provided to consumers by the error resolution and other requirements of the regulation, which remain in effect as to deposits at electronic terminals. If a consumer requests additional information about a deposit within the time periods prescribed in § 205.11(b), for example, the institution must comply with the error resolution requirements.

This amendment and the one discussed in section (2) below are being adopted without an opportunity for further public comment on the specific wording because the Board believes that there has been ample opportunity for comment on the issues, and because a prompt resolution is necessary in view of the time remaining until the effective date of the regulation. Accordingly, the expanded rulemaking procedures set forth in the Board's policy statement of January 15, 1979 (44 FR 3957), will not be followed in connection with these two amendments.

One commenter asked whether section 906(f), which provides that any documentation provided pursuant to the Act constitutes *prima facie* proof of payment to another person, would apply to terminal receipts for deposits at terminals. The Board believes that section 906(f) does not apply to deposits to the consumer's account, since no payment is being made to another person. If a deposit is made to another person's account, and, because of an agreement between the consumer making the deposit and the financial institution as to deposits to *that* account, the other person's account is subject to Regulation E, the receipt would constitute *prima facie* proof of payment.

Financial institutions have asked what their responsibility will be under the regulation when the amount of a deposit as verified by the institution is more or less than the amount entered by the consumer into the terminal. Although financial institutions may wish to notify consumers immediately of any discrepancy, the Board believes that a financial institution is not required by the regulation to notify the consumer of the different amount until the periodic statement is sent. The statement should reflect the proper amount, or, depending on the institution's system, a correction of the erroneous amount. The financial institution must, of course, comply with the error resolution procedures when an error in a deposit is alleged by the consumer.

Financial institutions also expressed concern about potential consumer fraud. Financial institutions are concerned that they will be unable to resolve error allegations within the 10-business-day period prescribed by § 205.11, and will have to provisionally recredit the consumer's account for the amount alleged to be in error during the investigation. The Board believes that a financial institution completes its investigation responsibilities under § 205.11 by examining the questioned deposit, verifying the amount, and reporting to the consumer in accordance with the regulation's requirements.

The Board has also been asked whether cash payments made at electronic terminals are subject to the Act. It is the Board's opinion that such payments are not electronic fund transfers because they do not debit or credit an "account" as that term is defined in the Act.

(2) *Section 205.9(b)(3)—Charges for electronic fund transfers.* The Board has adopted an amendment to § 205.9(b)(3) to permit a financial institution to disclose on periodic statements the total charges (a) for electronic fund transfers or the right to make transfers, *or* (b) for account maintenance assessed against the account during the statement period. This amendment comports with the statutory language. It permits disclosure on the periodic statement of the total charges assessed against the account during the statement period, including any transaction charges. No change has been made to § 205.7(a)(5), however, and financial institutions must separately disclose the EFT charges, including transaction charges, when the initial disclosures are made. The amendment is being adopted in response to comments on the final regulation that raised significant operational obstacles to separate disclosure of EFT and non-EFT charges, particularly for accounts where the charges are identical for electronic and paper transfers. The Board believes that the amendment more closely approximates the congressional intent with respect to such charges, will not reduce the information given to the consumer (who will be told what the separate EFT charges are in the initial disclosures required by § 205.7), and will result in cost savings to financial institutions.

The Board does not believe that overdraft or stop payment charges are EFT charges or charges for the right to make electronic fund transfers. They need not be disclosed under §§ 205.7(a) or 205.9(b).

(3) *Section 205.9(f)—Receipt requirements for certain cash-dispensing terminals.* Section 205.9(a) of the regulation, which becomes effective May 10, 1980, provides that a financial institution must make a written receipt available to the consumer at the time any transfer is initiated at an electronic terminal. It came to the Board's attention that some financial institutions operate cash-dispensing electronic terminals that are incapable of generating a receipt to the consumer at the time the transfer is initiated. In response to concerns that financial

institutions would take these terminals out of service on May 10 because of non-compliance and that a valuable service would thus be unavailable to consumers, the Board proposed an amendment to Regulation E to permit financial institutions with such terminals until January 1, 1981, to replace the terminals, provided that in the interim the financial institution mails or delivers a receipt to the consumer on the next business day after the transfer was initiated (45 FR 8268, February 6, 1980). The proposed deferral of the effective date was intended to give financial institutions adequate opportunity to replace existing terminals.

The vast majority of the comments favored some delay in the May 10 effective date of the requirement that a receipt be made immediately available. However, most financial institutions operating the terminals in question argued that the seven-month extension would be an insufficient period in which to make the capital expenditure necessary to replace the affected terminals. These institutions argued that no loss in consumer protection would occur as a result of a permanent "grandfathering" of such terminals, because the consumer would receive the required information in the mail shortly after the transfer has taken place. In fact, these commenters argued, the possibility of detecting unauthorized use of an access device would be enhanced by the practice of mailing the receipt to the consumer on the next business day.

The Board has adopted an amendment (§ 205.9(f)) that will permit financial institutions operating certain cash-dispensing terminals to mail or deliver a written terminal receipt to the consumer on the next business day after the transfer is initiated. The amendment applies to terminals that (a) do not permit transfers other than cash withdrawals, (b) cannot make a receipt available to the consumer at the time the transfer is initiated, (c) cannot be modified to provide a receipt at that time, and (d) were purchased or ordered prior to February 6, 1980, the date the final regulation was published (45 FR 8264). The Board considered but rejected requests that it totally exempt such cash dispensers from the receipt requirement.

This is a permanent exception as to terminals purchased or ordered by the financial institution before February 6, 1980. There is no specific date by which these terminals must be replaced. Section 904 of the Act permits the Board to "provide for such adjustments and exceptions for any class of electronic fund transfers, as in the judgment of the Board are necessary or proper to effectuate the purposes" of the Act. The amendment adopted by the Board will permit financial institutions to phase out these terminals in an orderly and cost-effective manner, and to continue providing what appears to be a beneficial service to consumers. The Board believes that the consumer protection provided by the receipt requirement will not be significantly changed by the amendment.

The Board believes that the amendment permits financial institutions to reinstall their present cash-dispensers in new locations. It should be noted that the exception may only be used by the financial institution that presently owns or operates the terminals; terminals sold to other financial institutions will not remain within the exception.

(4) *Section 205.9(g)—Delayed effective date for certain periodic statement requirements.* The Board has adopted an amendment (§ 205.9(g)) which provides that a financial institution's failure to describe an electronic fund transfer in accordance with certain periodic statement requirements shall not constitute a violation of the Act or regulation as to any transfer that occurs before August 10, 1980. These requirements relate to § 205.9(b)(1)(iv), which requires disclosure of the terminal location for each transfer, and § 205.9(b)(1)(v), which requires disclosure on the statement of the name of any third party to or from whom funds were transferred.

The Board proposed the delay in the effective date of these portions of the regulation because it had become aware that financial institutions were expecting to experience serious difficulty in complying with these two requirements by May 10. The Board issued the final portions of Regulation E on February 6, 1980, slightly more than three months before the effective date of the regulation. The Board was concerned that rushed compliance efforts to meet the deadline and non-compliance after that date would result in substantial costs to financial institutions.

The comments received by the Board, with one exception, favored the adoption of a delayed effective date. Financial institutions responded to a request for specific estimates of costs that would be incurred if they had to comply by May 10, and subsequent reductions in those costs should the delay be adopted. Their estimates are discussed in detail in section (5) below. Significant obstacles to compliance by May 10 cited by commenters included the necessary modifications in computer software; redesign, reprinting, and distribution of statement forms; training of personnel; and the pretesting of new statement programs and formats.

The Board has determined, based on the comments received and its own analysis, that a brief delay in the effective date of these two periodic statement requirements will result in cost savings to financial institutions and will not result in a significant reduction in the consumer protections afforded by the Act.

The Board considered, but rejected, suggestions to delay the effective date for a longer period and to extend the delay to other requirements. Most financial institutions commented that this brief delay, limited to the two most difficult provisions in the documentation requirements, was adequate.

The Board wishes to insure that consumers enjoy the major protections of the Act and regulation during the three-month delay. Consequently, a requirement previously stated in the **Federal Register** has been incorporated into the regulation. Where applicable, financial institutions must, upon the consumer's request and without cost, provide the consumer with evidence of proof of payment to another person (as provided by section 906(f) of the Act). The Board reiterates that financial institutions must treat any request for additional information from the consumer as to an incompletely identified transfer as an "error" under § 205.11(a) and comply with the error resolution procedures.

(5) *Economic impact analysis.* Section 904(a)(2) of the Act requires the Board to prepare an analysis of the economic impact of the regulation that the Board issues to implement the Act. The following economic analysis accompanies sections of the regulation that are being issued in final form.[1]

The analysis must consider the costs and benefits of the regulation to suppliers and users of electronic fund transfer (EFT) services, the extent to which additional documentation, reports, records, or other paperwork would be required, the effects of the regulation on competition in the provision of electronic fund transfer services among large and small financial institutions, and the effects of the regulation on the availability of EFT services to different classes of consumers, particularly low-income consumers.

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[1] The analysis presented here is to be read in conjunction with the economic impact analysis that accompany the Board's final rules at 44 FR 18474 (March 28, 1979), at 44 FR 33838 (June 13, 1979), at 45 FR 46433 (August 8, 1979), at 44 FR 59468 (October 15, 1979), and at 45 FR 8259 (February 6, 1980).

The regulation in part reiterates provisions of the statute and in part amplifies the statute. Therefore, the economic analysis considers impacts of both the regulation and the statute, and throughout the analysis a distinction will be made between costs and benefits of the regulation and those of the statute. *The following analysis assumes that the regulation and the Act have no relevant economic impact if they are less restrictive than current industry practices or state law. In this case, the regulation will not affect costs, benefits, competition, or availability and will not inhibit the market mechanism. The following analysis of the regulation and the Act is relevant only if their provisions are more constraining than those provisions under which institutions would otherwise operate.*

Section 205.9(b)(1)(iv) is amended so that deposits of cash, checks, drafts, or similar paper instruments at electronic terminals are not subject to the terminal location documentation requirement. Commenters pointed out that deposits made at electronic terminals are usually processed in the same way as deposits made at night depositories, at lobby drop boxes, and through the mail. Many financial institutions do not segregate deposits made at electronic terminals from other deposits and have no way of identifying at which electronic terminal a deposit was made. Costly changes in operating procedures and separate manual processing would be necessary to capture terminal location information for such deposits. The amendment is expected to reduce compliance costs and prevent the elimination of terminal deposit services by some institutions that could not comply in the absence of the amendment. Consumers will continue to receive receipts for deposits at electronic terminals and be protected by the error resolution procedures and other provisions of the Act and regulation.

Section 205.9(b)(3) is amended to provide that financial institutions may show on the periodic statement the total amount of all fees or charges assessed against the account during the statement period. Total fees or charges assessed only for EFTs or the right to make such transfers need not be reported separately, as had been previously required. Commenters pointed out that most data processing systems are not now capable of segregating the information needed to compute charges associated only with electronic transfers. Reprogramming accounting systems would be very expensive. Furthermore, many institutions assess fees or charges for service packages that include EFT services, so that isolation of changes related only to EFT would not be possible. This amendment is expected to reduce compliance costs substantially. Consumers will continue to be assured to receiving documentation of account fees and charges so that they can use that information to shop for the best of the different types of accounts available in the market.

Section 205.9(f) grants financial institutions a permanent exemption from the § 205.9(a) terminal documentation requirements for certain cash dispensers. A recent survey of all insured commercial banks revealed that the number of cash dispensers in operation was 623 in 1974, 437 in 1976, and 395 in 1979; and that the number of automated teller machines in operation was 1476 in 1974, 3032 in 1976, and 6215 in 1979.[2] It is apparent that the number of cash dispensers in use at commercial banks has declined in absolute terms and as a percentage of all automated retail banking machines. Similar trends in equipment use are expected to be obtain for other types of financial institutions.

In response to its request for information, the Board received comments from 11 financial institutions that were each operating at least one cash dispenser incapable of issuing receipts to consumers. All of these commenters requested a delay of the effective date or a permanent exemption from the requirements under consideration. Commenters cited customer satisfaction with existing cash dispensers, some of which have been in place for over 10 years, and the high costs associated with abandoning or replacing cash dispensers. Costs of replacing a non-complying machine were estimated to range from $20,000 to $50,000, depending on the type of replacement equipment, in addition to site preparation, reprogramming, and card base replacement costs. Furthermore, given the long lead times required to order and secure delivery of new equipment, some financial institutions could not replace non-complying machines by May 10, 1980.

This information, together with the realization that the stock of existing cash dispensers is declining as machines are retired and replaced with machines capable of issuing receipts when transfers are made, leads the Board to grant a permanent exemption from the § 205.9(a) documentation requirements for cash dispensers that were purchased or ordered prior to February 6, 1980. While the number of financial institutions and consumers affected by the exemption is relatively small, the impact of the exemption on them will be significant and provide a net benefit.

Consumers will retain the documentation protections afforded by the Act because of the provision that financial institutions must mail or deliver, on the business day following the transfer, a written receipt detailing the required transfer information. At the same time, financial institutions will not be forced to abandon cash-dispenser service or replace existing service with more costly service. The costs of any premature abandonment or replacement would be passed on to consumers to some degree.

Although the requirement to mail or deliver a written transaction document will increase the paperwork and record-keeping burden of institutions that do not now provide that service for cash-dispenser transactions, the burden will be much smaller than that imposed by the Act were the regulatory exception not granted. Without the exemption, equipment replacement costs and costs of civil liabilities for noncompliance would be greater. The exemption will provide greater relief from the statutory compliance burden for small financial institutions because they are less able than larger institutions to bear fixed costs associated with meeting the Act's compliance deadline.

The exemption is expected to have some influence on the availability of EFT services to different income classes of consumers. Certain of the affected cash dispensers are the only form of EFT service offered in the low-income rural areas they serve, and the exemption will permit the continued operation of those machines. Furthermore, some low-income consumers might be priced out of the market for EFT services if higher transaction charges were imposed because of cash dispenser replacement.

Section 205.9(g) delays until August 10, 1980, the effective date of two periodic statement requirements, §§ 205.9(b)(1) (iv) and (v). The delay applies to all financial institutions. Commenters provided compliance cost estimates that demonstrate that documentation of terminal locations and of third-party names are among the most burdensome requirements of the Act. Most commenters indicated that they would have to incur substantial system development costs in order to capture the necessary information and reproduce it on periodic statements.

[2] David A. Walker, "An Analysis of Financial and Structural Characteristics of Banks with Retail EFT Machines," Working Paper No. 79-1. Washington, D.C.: Federal Deposit Insurance Corporation, 1979, p. 3.

Some institutions and contract processors stated that the necessary reprogramming efforts could not be completed by May 10, 1980, regardless of cost, because sufficient human resources are not available and because new systems require time for field testing and modification. Rushed compliance efforts would probably require much greater expenditures and more costly revisions than efforts directed toward an August 10, 1980, or later compliance deadline. Many commenters were unable to provide estimates of cost savings from the three-month delay. For the 25 commenters that gave cost estimates, the delay was expected to save a total of over $1 million.

Other costs are associated with the terminal location and third-party name documentation requirements. These include costs of the addition of data storage capacity to handle the increased volume of transaction information, costs of retraining employees who use the new systems, and costs of discarding obsolete periodic statement forms and other supplies. The more time financial institutions and processors have in which to comply, the more efficiently resources can be allocated.

In consideration of the cost estimates furnished by commenters, the Board is extending the compliance deadline 3 months beyond the effective date of the Act. This regulatory provision is expected to yield a significant cost savings to financial institutions as a group and, for many individual institutions, prevent either widespread curtailments of EFT services or extensive violation of the statutory documentation requirements in case services are not curtailed. No significant loss of consumer benefits is expected, because consumers will have access to all information, proof of payments, and error resolution procedures required by law.

Although financial institutions will be spared substantial costs by the extension, commenters stated that many institutions, most of them small, will not be in compliance by August 10, 1980. Commenters anticipated that these institutions may have to suspend consumer EFT services, some of which have been successfully offered for many years, in order to protect themselves from civil liability under the Act. Even if compliance could be achieved soon after August 10, 1980, any disruption, however short, in EFT services would harm these institutions by causing loss of service with consequent loss of customers, by necessitating mailings of explanations to customers, and by requiring the use of managerial resources for discontinuing and later reinstating services. For many small financial institutions there will be little opportunity to control the process because they rely on outside processors, many of which cannot complete program modifications and client retraining by August 10, 1980. Low-income customers who have only savings accounts and who use EFT services will be adversely affected by the Act to the extent that their institutions will not be able to document the names of third-party payors or payees on periodic statements.

The delay in the effective date will reduce paperwork and documentation costs for those institutions that, in the absence of a delay, would continue to offer EFT services and would seek to comply by manually inserting transfer documentation into periodic statements.

(6) Pursuant to the authority granted in 15 U.S.C.A. 1693b, the Board hereby amends 12 CFR Part 205, effective May 10, 1980, by adding a footnote to paragraph (b)(1)(iv), amending paragraph (b)(3), and adding paragraphs (f) and (g) to § 205.9, to read as follows:

§ 205.9 Documentation of transfers.

* * * * *

(b) *Periodic statements.* * * *

(1) * * *

(iv) For each transfer initiated by the consumer at an electronic terminal,[4a] * * *

* * * * *

(3) The total amount of any fees or charges, other than a finance charge under 12 CFR 226.7(b)(1)(iv), assessed against the account during the statement period for electronic fund transfers or the right to make such transfers, or for account maintenance.

* * * * *

(f) *Receipt requirements for certain cash-dispensing terminals.* The failure of a financial institution to comply with the requirement of paragraph (a) of this section that a receipt be made available to the consumer at the time an electronic fund transfer is initiated at an electronic terminal shall not constitute a violation of the Act or this regulation, provided

(1) The transfer occurs at an electronic terminal that

(i) Does not permit transfers other than cash withdrawals by the consumer,

(ii) Cannot make a receipt available to the consumer at the time the transfer is initiated,

(iii) Cannot be modified to provide a receipt at that time, and

(iv) Was purchased or ordered by the financial institution prior to February 6, 1980; and

(2) The financial institution mails or delivers a written receipt to the consumer that complies with the other requirements of paragraph (a) of this section on the next business day following the transfer.

(g) *Delayed effective date for certain periodic statement requirements.* The failure of a financial institution to describe an electronic fund transfer in accordance with the requirements of paragraphs (b)(1) (iv) and (v) of this section shall not constitute a violation of the Act or this regulation unless the transfer occurs on or after August 10, 1980, if, when a transfer involves a payment to another person, the financial institution, upon the consumer's request, and without charge, promptly provides the consumer with proof that such a payment was made.

* * * * *

By order of the Board of Governors, April 10, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-11400 Filed 4-14-80; 8:45 am]

BILLING CODE 6210-01-M

[4a] A financial institution need not identify the terminal location for deposits of cash, checks, drafts, or similar paper instruments at electronic terminals.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

20 CFR Part 404

[Regulations No. 4]

Federal Old-Age, Survivors, and Disability Insurance

AGENCY: Social Security Administration, HEW.

ACTION: Final rule.

SUMMARY: The Department of Health, Education, and Welfare (HEW) is revising its regulations to make them clearer and easier for the public to use. As part of this effort, we are revising completely Subpart B of 20 CFR Part 404. Subpart B contains the rules for determining the insured status of a worker and crediting quarters of coverage (QCs) for purposes of old-age, disability, dependents', and survivors' insurance benefits under title II of the Social Security Act. We have completely reorganized these regulations and rewritten the rules in simpler, briefer language. We have not changed the substance of our current rules, but have removed outdated and rarely used provisions.

DATES: The final rule is effective April 15, 1980.

FOR FURTHER INFORMATION CONTACT: Dave Smith, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-7336.

SUPPLEMENTARY INFORMATION: We have rewritten this subpart as part of HEW's "Operation Common Sense," a Department-wide effort to review, simplify, and reduce HEW's regulations. This subpart is important because insured status is a basic factor in determining if benefits are payable to a worker or to others based on that worker's earnings record. Whether a worker has insured status depends on the number of quarters of coverage (QCs) credited to him or her.

We published our proposed revision of Subpart B in the **Federal Register** in a Notice of Proposed Rulemaking (NPRM) on July 11, 1979 (44 FR 40526) with a 60-day comment period. We did not receive any comments. However, we felt we could improve the presentation of the subpart by further reorganizing the material, reversing the order of the discussion of insured status and QCs. We also made some refinements in language. These changes do not affect the substance of the rules.

In these final regulations we also included an appendix which shows the QC amount for each year after 1978. We explain in the regulations that the adjusted amount is published the preceding year on or before November 1 as a Notice in the **Federal Register**. We also updated the cross-references to material in Subpart D of 20 CFR Part 404 to reflect the recodification of that subpart published at 44 FR 34479 (June 15, 1979).

In both the NPRM and final regulations we have added a provision to the former regulations and deleted some provisions from the former regulations.

Added Provision

We have added a provision in § 404.110(d)(2) (§ 404.120(d)(2) in the NPRM) on crediting QCs for fully insured status based on wages paid before 1951. This provision reflects the amendment made to section 215(d)(1)(C) of the Social Security Act by section 142(b) of Pub. L. 92-603, enacted October 30, 1972. The amendment provides that total wages before 1951 include wages considered paid to a person before 1951 under section 231 of the Act (relating to benefits in case of certain persons interned in the United States during World War II). These wage credits may affect a person's current eligibility or benefit amount.

Deleted Provisions

Former § 404.103(d)(1)(x) contained conditions about crediting QCs based on wages paid in a year before 1951 equal to $3,000. We removed these conditions since they were taken out of the law by the Social Security Amendments of 1960 (section 206 of Pub. L. 86-778) and no longer apply.

Former § 404.113a concerned transitional insured status and applied only to certain claimants who attained age 72 before 1969 and are not fully insured. We removed this section from the regulations because we rarely use it, but we will apply this provision in appropriate cases.

Former § 404.115(b)(1) explained when disability insured status must be met for disability insurance benefits payable for months before January 1973. We removed this provision because it is outdated.

Former §§ 404.115(b)(2)(ii), 404.116(b)(3)(ii), and 404.116(d)(3)(ii) set out the conditions under which an application for a period of disability or disability insurance benefits filed before October 1972 was treated in the same way as an application filed after September 1972 for applying certain rules dealing with disability insured status. We removed these provisions because they are outdated.

Former § 404.120(a) permitted us to grant QCs based on a worker's railroad compensation for purposes of establishing a period of disability even though that compensation may not be used for other purposes under title II of the Social Security Act. The authority for this provision was contained in section 5(k)(1) of the Railroad Retirement Act (RRA) of 1937, but was deleted by the RRA of 1974 (section 18 of Pub. L. 93-445). We contacted the Railroad Retirement Board about a technical amendment to the RRA that would reinstate the deleted material. Until this material is reinstated, however, the provision in former § 404.120(a) no longer applies; therefore, we removed it.

Accordingly, the final rule is adopted as set forth below.

(Catalog of Federal Domestic Assistance Program Nos. 13.802 Social Security-Disability Insurance; 13.803 Social Security-Retirement Insurance; and 13.805 Social Security-Survivors Insurance.)

Dated: February 22, 1980.

William J. Driver,

Commissioner of Social Security.

Approved: April 9, 1980.

Patricia Roberts Harris,

Secretary of Health, Education, and Welfare.

Subpart B of Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is revised to read as follows:

Subpart B—Insured Status and Quarters of Coverage

General

Sec.
404.101 Introduction.
404.102 Definitions.

Fully Insured Status

404.110 How we determine fully insured status.
404.111 When we consider a person fully insured based on World War II active military or naval service.
404.115 Table for determining the quarters of coverage you need to be fully insured.

Currently Insured Status

404.120 How we determine currently insured status.

Disability Insured Status

404.130 How we determine disability insured status.
404.131 When you must have disability insured status.
404.132 How we determine fully insured status for a period of disability or disability insurance benefits.
404.133 When we give you quarters of coverage based on military service to establish a period of disability.

Quarters of Coverage

404.140 What is a quarter of coverage.
404.141 How we credit quarters of coverage for calendar years before 1978.
404.142 How we credit self-employment income to calendar quarters for taxable years beginning before 1978.
404.143 How we credit quarters of coverage for calendar years after 1977.
404.144 How we credit self-employment income to calendar years for taxable years beginning after 1977.
404.145 When you acquire a quarter of coverage.
404.146 When a calendar quarter cannot be a quarter of coverage.
Appendix—Quarter of coverage amounts for calendar years after 1978.

Authority: Secs. 205, 212, 213, 214, 216, 217, 223, and 1102 of the Social Security Act, 53 Stat. 1368, 64 Stat. 504 and 505, 68 Stat. 1080, 64 Stat. 512, 70 Stat. 815, and 49 Stat. 647; sec. 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 631, 42 U.S.C. 405, 412, 413, 414, 416, 417, 423, and 1302; 5 U.S.C. Appendix.

Subpart B—Insured Status and Quarters of Coverage

General

§ 404.101 Introduction.

(a) *Insured status.* This subpart explains what we mean when we say that a person has insured status under the social security program. It also describes how a person may become fully insured, currently insured or insured for disability benefits. Your insured status is a basic factor in determining if you are entitled to old-age or disability insurance benefits or to a period of disability. It is also a basic factor in determining if dependents' or survivors' insurance benefits or a lump-sum death payment are payable based on your earnings record. If you are neither fully nor currently insured, no benefits are payable based on your earnings. (Subpart D of this part describes these benefits and the kind of insured status required for each.) In §§ 404.110–404.120 we tell how we determine if you are fully or currently insured. The rules for determining if you are insured for purposes of establishing a period of disability or becoming entitled to disability insurance benefits are in §§ 404.130–404.133. Whether you have the required insured status depends on the number of quarters of coverage (QCs) you have acquired.

(b) *QCs.* This subpart also sets out our rules on crediting you with QCs. QCs are used in determining insured status. In general, you are credited with QCs based on the wages you are paid and the self-employment income you derive during certain periods. (See Subpart K of this part for a definition of "wages" and "self-employment income".) Our rules on how and when you acquire a QC are contained in §§ 404.140–404.146.

§ 404.102 Definitions.

For the purpose of this subpart—

"Act" means the Social Security Act, as amended.

"Age" means how many years old you are. You reach a particular age on the day before your birthday. For example, if your sixty-second birthday is on July 1, 1979, you became age 62 on June 30, 1979.

"Quarter" or "calendar quarter" means a period of three calendar months ending March 31, June 30, September 30, or December 31 of any year.

"We," "our," or "us" means the Social Security Administration.

"You" or "your" means the worker whose insured status is being considered.

Fully Insured Status

§ 404.110 How we determine fully insured status.

(a) *General.* We describe how we determine the number of quarters of coverage (QCs) you need to be fully insured in paragraphs (b), (c), and (d) of this section. The table in § 404.115 may be used to determine the number of QCs you need to be fully insured under paragraph (b) of this section. We also consider certain World War II veterans to have died fully insured (see § 404.111).

(b) *How many QCs you need to be fully insured.* (1) You need at least 6 QCs but not more than 40 QCs to be fully insured. A person who died before 1951 with at least 6 QCs is fully insured.

(2) You are fully insured for old-age insurance benefits if you have one QC (whenever acquired) for each calendar year elapsing after 1950 or, if later, after the year in which you became age 21, and before the year you reach retirement age, that is, before—

(i) The year you became age 62, if you are a woman;

(ii) The year you became age 62, if you are a man who becomes age 62 after 1974;

(iii) The year 1975, if you are a man who became age 62 in 1973 or 1974; or

(iv) The year you became age 65, if you are a man who became age 62 before 1973.

(3) A person who is otherwise eligible for survivor's benefits and who files an application will be entitled to benefits based on your earnings if you die fully insured. You will be fully insured if you had one QC (whenever acquired) for each calendar year elapsing after 1950 or, if later, after the year you became age 21, and before the earlier of the following years:

(i) The year you die; or

(ii) The year you reach retirement age as shown in paragraph (b)(2) of this section.

(c) *How a period of disability affects the number of QCs you need.* In determining the number of elapsed years under paragraph (b) of this section, we do not count as an elapsed year any year which is wholly or partly in a period of disability we established for you. For example, if we established a period of disability for you from December 5, 1975 through January 31, 1977, the three years, 1975, 1976 and 1977, would not be counted as elapsed years.

(d) *How we credit QCs for fully insured status based on your total wages before 1951.*

(1) *General.* For purposes of paragraph (b) of this section, we may use the foll)wing rule in crediting QCs based on your wages before 1951 instead of the rule in § 404.141(b)(1). We may consider you to have one QC for each $400 of your total wages before 1951, as defined in paragraph (d)(2) of this section, if—

(i) You have at least 7 elapsed years as determined under paragraph (b)(2) or (b)(3) of this section; and

(ii) The number of QCs determined under this paragraph plus the number of QCs credited to you for periods after 1950 make you fully insured.

(2) *What are total wages before 1951.* For purposes of paragraph (d)(1) of this section, your total wages before 1951 include—

(i) Remuneration credited to you before 1951 on the records of the Secretary;

(ii) Wages considered paid to you before 1951 under section 217 of the Act (relating to benefits in case of veterans);

(iii) Compensation under the Railroad Retirement Act of 1937 before 1951 that can be credited to you under title II of the Social Security Act; and

(iv) Wages considered paid to you before 1951 under section 231 of the Act (relating to benefits in case of certain persons interned in the United States during World War II).

(e) *When your fully insured status begins.* You are fully insured as of the first day of the calendar quarter in which you acquire the last needed QC (see § 404.145).

§ 404.111 When we consider a person fully insured based on World War II active military or naval service.

We consider that a person, who was not otherwise fully insured, died fully insured if—

(a) The person was in the active military or naval service of the United States during World War II;

(b) The person died within three years after separation from service and before July 27, 1954; and

(c) The conditions in § 404.1315 and § 404.1316 that permit us to consider the person fully insured are met.

§ 404.115 Table for determining the quarters of coverage you need to be fully insured.

(a) *General.* You may use the following table to determine the number of quarters of coverage (QCs) you need to be fully insured under § 404.110. Paragraphs (b) and (c) of this section tell you how to use this table.

Worker who reaches retirement age as described in § 404.110(b)(2)			Worker who dies before reaching retirement age as described in § 404.110(b)(2)		
Col. I	Col. II[1]		Col. III[2]	Col. IV[3]	Col. V[4]
Date of birth	Men	Women	Year of death		Age in year of death
Jan. 1, 1893 or earlier	6	6	[5]1957	6	[6]28
Jan. 2, 1893 to Jan. 1, 1894	7	6	1958	7	29
Jan. 2, 1894 to Jan. 1, 1895	8	6	1959	8	30
Jan. 2, 1895 to Jan. 1, 1896	9	6	1960	9	31
Jan. 2, 1896 to Jan. 1, 1897	10	7	1961	10	32
Jan. 2, 1897 to Jan. 1, 1898	11	8	1962	11	33
Jan. 2, 1898 to Jan. 1, 1899	12	9	1963	12	34
Jan. 2, 1899 to Jan. 1, 1900	13	10	1964	13	35
Jan. 2, 1900 to Jan. 1, 1901	14	11	1965	14	36
Jan. 2, 1901 to Jan. 1, 1902	15	12	1966	15	37
Jan. 2, 1902 to Jan. 1, 1903	16	13	1967	16	38
Jan. 2, 1903 to Jan. 1, 1904	17	14	1968	17	39
Jan. 2, 1904 to Jan. 1, 1905	18	15	1969	18	40
Jan. 2, 1905 to Jan. 1, 1906	19	16	1970	19	41
Jan. 2, 1906 to Jan. 1, 1907	20	17	1971	20	42
Jan. 2, 1907 to Jan. 1, 1908	21	18	1972	21	43
Jan. 2, 1908 to Jan. 1, 1909	22	19	1973	22	44
Jan. 2, 1909 to Jan. 1, 1910	23	20	1974	23	45
Jan. 2, 1910 to Jan. 1, 1911	24	21	1975	24	46
Jan. 2, 1911 to Jan. 1, 1912	24	22	1976	25	47
Jan. 2, 1912 to Jan. 1, 1913	24	23	1977	26	48
Jan. 2, 1913 to Jan. 1, 1914	24	24	1978	27	49
Jan. 2, 1914 to Jan. 1, 1915	25	25	1979	28	50
Jan. 2, 1915 to Jan. 1, 1916	26	26	1980	29	51
Jan. 2, 1916 to Jan. 1, 1917	27	27	1981	30	52
Jan. 2, 1917 to Jan. 1, 1918	28	28	1982	31	53
Jan. 2, 1918 to Jan. 1, 1919	29	29	1983	32	54
Jan. 2, 1919 to Jan. 1, 1920	30	30	1984	33	55
Jan. 2, 1920 to Jan. 1, 1921	31	31	1985	34	56
Jan. 2, 1921 to Jan. 1, 1922	32	32	1986	35	57
Jan. 2, 1922 to Jan. 1, 1923	33	33	1987	36	58
Jan. 2, 1923 to Jan. 1, 1924	34	34	1988	37	59
Jan. 2, 1924 to Jan. 1, 1925	35	35	1989	38	60
Jan. 2, 1925 to Jan. 1, 1926	36	36	1990	39	61
Jan. 2, 1926 to Jan. 1, 1927	37	37	1991	40	62
Jan. 2, 1927 to Jan. 1, 1928	38	38			
Jan. 2, 1928 to Jan. 1, 1929	39	39			
Jan. 2, 1929 or later	40	40			

[1] Number of QCs required for fully insured status; living worker or worker who dies after reaching retirement age.
[2] Worker born before Jan. 2, 1930 who dies before reaching retirement age.
[3] Number of QCs required for fully insured status.
[4] Worker born Jan. 2, 1930 or later, who dies before reaching retirement age.
[5] Or earlier.
[6] Or younger.
[7] Or later.

(b) *Number of QCs you need.* The QCs you need for fully insured status are in column II opposite your date of birth in column I. If a worker dies before reaching retirement age as described in § 404.110(b)(2), the QCs needed for fully insured status are shown in column IV opposite—

(1) The year of death in column III, if the worker was born before January 2, 1930; or

(2) The age in the year of death in column V, if the worker was born after January 1, 1930.

(c) *How a period of disability affects the number of QCs you need.* If you had a period of disability established for you, it affects the number of QCs you need to be fully insured (see § 404.110(c)). For each year which is wholly or partly in a period of disability, subtract one QC from the number of QCs shown in the appropriate line and column of the table as explained in paragraph (b) of this section.

Currently Insured Status

§ 404.120 How we determine currently insured status.

(a) *What the period is for determining currently insured status.* You are currently insured if you have at least 6 quarters of coverage (QCs) during the 13-quarter period ending with the quarter in which you—

(1) Die;

(2) Most recently became entitled to disability insurance benefits; or

(3) Became entitled to old-age insurance benefits.

(b) *What quarters are not counted as part of the 13-quarter period.* We do not count as part of the 13-quarter period any quarter all or part of which is included in a period of disability established for you, except that the first and last quarters of the period of disability may be counted if they are QCs (see § 404.146(d)).

Disability Insured Status

§ 404.130 How we determine disability insured status.

(a) *General.* We have three different rules for determining if you are insured for purposes of establishing a period of disability or becoming entitled to disability insurance benefits. To have disability insured status, you must meet one of these rules and you must be fully insured (see § 404.132 which tells when the period ends for determining the number of quarters of coverage (QCs) you need to be fully insured).

(b) *Rule I—You meet the 20/40 requirement.* You are insured in a quarter for purposes of establishing a period of disability or becoming entitled to disability insurance benefits if in that quarter—

(1) You are fully insured; and

(2) You have at least 20 QCs in the 40-quarter period (see paragraph (e) of this section) ending with that quarter.

(c) *Rule II—You become disabled before age 31.* You are insured in a quarter for purposes of establishing a period of disability or becoming entitled to disability insurance benefits if in that quarter—

(1) You have not become (or would not become) age 31;

(2) You are fully insured; and

(3) You have QCs in at least one-half of the quarters during the period ending with that quarter and beginning with the quarter after the quarter you became age 21; however—

(i) If the number of quarters during this period is an odd number, we reduce the number by one; and

(ii) If the period has less than 12 quarters, you must have at least 6 QCs in the 12-quarter period ending with that quarter.

(d) *Rule III—You are statutorily blind.* You are insured in a quarter for purposes of establishing a period of disability or becoming entitled to disability insurance benefits if in that quarter—

(1) You are disabled by blindness as defined in § 404.1501(b)(1)(ii); and

(2) You are fully insured.

(e) *How we determine the 40-quarter or other period.* In determining the 40-quarter period or other period in paragraph (b) or (c) of this section, we do not count any quarter all or part of which is in a prior period of disability established for you, unless the quarter is the first or last quarter of this period and the quarter is a QC.

§ 404.131 When you must have disability insured status.

(a) *For a period of disability.* To establish a period of disability, you must have disability insured status in the quarter in which you become disabled or in a later quarter in which you are disabled.

(b) *For disability insurance benefits.* (1) To become entitled to disability insurance benefits, you must have disability insured status in the first full month that you are disabled as described in § 404.1501(a), or if later—

(i) The 17th month (if you have to serve a waiting period described in § 404.315(d)) before the month in which you file an application for disability insurance benefits; or

(ii) The 12th month (if you do not have to serve a waiting period) before the month in which you file an application for disability insurance benefits.

(2) If you do not have disability insured status in a month specified in paragraph (b)(1) of this section, you will be insured for disability insurance benefits beginning with the first month after that month in which you do meet the insured status requirement and you also meet all other requirements for disability insurance benefits described in § 404.315.

§ 404.132 How we determine fully insured status for a period of disability or disability insurance benefits.

In determining if you are fully insured for purposes of paragraph (b), (c), or (d) of § 404.130 on disability insured status, we use the fully insured status requirements in § 404.110, but apply the following rules in determining when the period of elapsed years ends:

(a) If you are a woman, or a man born after January 1, 1913, the period of elapsed years in § 404.110(b) used in determining the number of quarters of coverage (QCs) you need to be fully insured ends as of the earlier of—

(1) The year you become age 62; or

(2) The year in which—

(i) Your period of disability begins;

(ii) Your waiting period begins (see § 404.315(d)); or

(iii) You become entitled to disability insurance benefits (if you do not have to serve a waiting period).

(b) If you are a man born before January 2, 1913, the period of elapsed years in § 404.110(b) used in determining the number of QCs you need to be fully insured ends as of the earlier of—

(1) The year 1975; or

(2) The year specified in paragraph (a)(2) of this section.

§ 404.133 When we give you quarters of coverage based on military service to establish a period of disability.

For purposes of establishing a period of disability only, we give you quarters of coverage (QCs) for your military service before 1957 (see Subpart N of this part). We do this even though we may not use that military service for other purposes of title II of the Act because a periodic benefit is payable from another Federal agency based in whole or in part on the same period of military service.

Quarters of Coverage

§ 404.140 What is a quarter of coverage.

(a) *General.* A quarter of coverage (QC) is the basic unit of social security coverage used in determining a worker's insured status. We credit you with QCs based on your earnings covered under social security.

(b) *How we credit QCs based on earnings before 1978 (General).* Before 1978, wages were generally reported on a quarterly basis and self-employment income was reported on an annual basis. For the most part, we credit QCs for calendar years before 1978 based on your quarterly earnings. For these years, as explained in § 404.141, we generally credit you with a QC for each calendar quarter in which you were paid at least $50 in wages or were credited with at least $100 of self-employment income. Section 404.142 tells how self-employment income derived in a taxable year beginning before 1978 is credited to specific calendar quarters for purposes of § 404.141.

(c) *How we credit QCs based on earnings after 1977 (General).* After 1977, both wages and self-employment income are generally reported on an annual basis. For calendar years after 1977, as explained in § 404.143, we generally credit you with a QC for each part of your total covered earnings in a calendar year that equals the amount required for a QC in that year. Section 404.143 also tells how the amount required for a QC will be increased in the future as average wages increase. Section 404.144 tells how self-employment income derived in a taxable year beginning after 1977 is credited to specific calendar years for purposes of § 404.143.

(d) *When a QC is acquired and when a calendar quarter is not a QC (general).* Section 404.145 tells when a QC is acquired and § 404.146 tells when a calendar quarter cannot be a QC. These rules apply when we credit QCs under § 404.141 or § 404.143.

§ 404.141 How we credit quarters of coverage for calendar years before 1978.

(a) *General.* The rules in this section tell how we credit calendar quarters as quarters of coverage (QCs) for calendar years before 1978. We credit you with a QC for a calendar quarter based on the amount of wages you were paid and self-employment income you derived during certain periods. The rules in paragraphs (b), (c), and (d) of this section are subject to the limitations in § 404.146, which tells when a calendar quarter cannot be a QC.

(b) *How we credit QCs based on wages paid in, or self-employment income credited to, a calendar quarter.* We credit you with a QC for a calendar quarter in which—

(1) You were paid wages of $50 or more (see paragraph (c) of this section for an exception relating to wages paid for agricultural labor); or

(2) You were credited (under § 404.142) with self-employment income of $100 or more.

(c) *How we credit QCs based on wages paid for agricultural labor in a calendar year after 1954.*

(1) We credit QCs based on wages for agricultural labor depending on the amount of wages paid during a calendar year for that work. If you were paid wages for agricultural labor in a calendar year after 1954 and before 1978, we credit you with QCs for calendar quarters in that year which are not otherwise QCs according to the following table.

(2) When we assign QCs to calendar quarters in a year as shown in the table in paragraph (c)(1) of this section, you might not meet (or might not meet as early in the year as otherwise possible) the requirements to be fully or currently insured, to be entitled to a computation or recomputation of your primary insurance amount, or to establish a period of disability. If this happens, we assign the QCs to different quarters in that year than those shown in the table if this assignment permits you to meet these requirements (or meet them earlier in the year). We can only reassign QCs for purposes of meeting these requirements.

(d) *How we credit QCs based on wages paid or self-employment income derived in a year.*

(1) If you were paid wages in a calendar year after 1950 and before 1978 at least equal to the annual wage limitation in effect for that year as described in § 404.1027(a), we credit you with a QC for each quarter in that calendar year. If you were paid at least $3,000 wages in a calendar year before 1951, we credit you with a QC for each quarter in that calendar year.

(2) If you derived self-employment income (or derived self-employment income and also were paid wages) during a taxable year beginning after 1950 and before 1978 at least equal to the self-employment income and wage limitation in effect for that year as described in § 404.1068(b), we credit you

with a QC for each calendar quarter wholly or partly in that taxable year.

§ 404.142 How we credit self-employment income to calendar quarters for taxable years beginning before 1978.

In crediting quarters of coverage under § 404.141(b)(2), we credit any self-employment income you derived during a taxable year that began before 1978 to calendar quarters as follows:

(a) If your taxable year was a calendar year, we credit your self-employment income equally to each quarter of that calendar year.

(b) If your taxable year was not a calendar year (that is, it began on a date other than January 1, or was less than a calendar year), we credit your self-employment income equally—

(1) To the calendar quarter in which your taxable year ended; and

(2) To each of the next three or fewer preceding quarters that were wholly or partly in your taxable year.

§ 404.143 How we credit quarters of coverage for calendar years after 1977.

(a) *Crediting quarters of coverage (QCs).* For calendar years after 1977, we credit you with a QC for each part of the total wages paid and self-employment income credited (under § 404.144) to you in a calendar year that equals the amount required for a QC in that year. For example, if the total of your wages and self-employment income for a calendar year is more than twice, but less than 3 times, the amount required for a QC in that year, we credit you with only 2 QCs for the year. The rules for crediting QCs in this section are subject to the limitations in § 404.146, which tells when a calendar quarter cannot be a QC. In addition, we cannot credit you with more than four QCs for any calendar year. The amount of wages and self-employment income that you must have for each QC is—

(1) $250 for calendar year 1978; and

(2) For each calendar year after 1978, an amount determined by the Secretary for that year (on the basis of a formula in section 213(d)(2) of the Act which reflects national increases in average wages). The amount determined by the Secretary is published in the **Federal Register** on or before November 1 of the preceding year and included in the appendix to this subpart.

(b) *Assigning QCs.* We assign a QC credited under paragraph (a) of this section to a specific calendar quarter in the calendar year only if the assignment is necessary to—

(1) Give you fully or currently insured status;

(2) Entitle you to a computation or recomputation of your primary insurance amount; or

(3) Permit you to establish a period of disability.

§ 404.144 How we credit self-employment income to calendar years for taxable years beginning after 1977.

In crediting quarters of coverage under § 404.143(a), we credit self-employment income you derived during a taxable year that begins after 1977 to calendar years as follows:

(a) If your taxable year is a calendar year or begins and ends within the same calendar year, we credit your self-employment income to that calendar year.

(b) If your taxable year begins in one calendar year and ends in the following calendar year, we allocate proportionately your self-employment income to the two calendar years on the basis of the number of months in each calendar year which are included completely within your taxable year. We consider the calendar month in which your taxable year ends as included completely within your taxable year.

Example. For the taxable year beginning May 15, 1978, and ending May 14, 1979, your self-employment income is $1200. We credit 7/12 ($700) of your self-employment income to calendar year 1978 and 5/12 ($500) of your self-employment income to calendar year 1979.

§ 404.145 When you acquire a quarter of coverage.

If we credit you with a quarter of coverage (QC) for a calendar quarter under paragraph (b), (c), or (d) of § 404.141 for calendar years before 1978 or assign it to a specific calendar quarter under paragraph (b) of § 404.143 for calendar years after 1977, you acquire the QC as of the first day of the calendar quarter.

§ 404.146 When a calendar quarter cannot be a quarter of coverage.

This section applies when we credit you with quarters of coverage (QCs) under § 404.141 for calendar years before 1978 and under § 404.143 for calendar years after 1977. We cannot credit you with a QC for—

(a) A calendar quarter that has not begun;

(b) A calendar quarter that begins after the quarter of your death;

(c) A calendar quarter that has already been counted as a QC; or

(d) A calendar quarter that is included in a period of disability established for you, unless—

(1) The quarter is the first or the last quarter of this period; or

(2) The period of disability is not taken into consideration (see § 404.320(a)).

Appendix—Quarter of Coverage Amounts for Calendar Years After 1978

This appendix shows the amount determined by the Secretary that is needed for a quarter of coverage for each year after 1978 as explained in 404.143. We publish the amount as a Notice in the **Federal Register** on or before November 1 of the preceding year. The amounts determined by the Secretary are as follows:

Calendar year:	*Amount Needed*
1979	$260
1980	$290

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Food and Drug Administration

21 CFR Part 178

[Docket No. 79F-0243]

Indirect Food Additives: Adjuvants, Production Aids and Sanitizers; Dodecylbenzenesulfonic Acid and Isopropyl Alcohol

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations to provide for the safe use of dodecylbenzenesulfonic acid and isopropyl alcohol as components of sanitizing solutions. The agency is taking this action in response to a petition filed by Pennwalt Corp.

DATES: Effective April 15, 1980; objections by May 15, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the **Federal Register** of August 24, 1979 (44 FR 49792) that a petition (FAP 9H3429) had been filed by Pennwalt Corp., Three Parkway, Philadelphia, PA 19102, proposing that the food additive regulations be amended to provide for the safe use of dodecylbenzenesulfonic acid and isopropyl alcohol as components of sanitizing solutions for use on food-processing equipment and utensils and