(a) Identify all alternatives considered by the Commission in reaching its decision or recommendation, specifying the alternatives which were considered to be environmentally preferable;

(b) State whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not.

§ 1.88 Implementing procedures.

(a) The General Counsel is designated the official responsible for coordinating the Commission's efforts to improve environmental quality. He will provide assistance to the staff in determining when an environmental impact statement is needed and in its preparation.

(b) The Commission will determine finally whether an action complies with NEPA.

(c) The Directors of the Bureaus of Consumer Protection and Competition will supplement these procedures for their Bureaus to assure that every proposed rule and guide is reviewed to assess the need for an environmental impact statement and that, where need exists, an environmental impact statement is developed to assure timely consideration of environmental factors.

(d) The General Counsel will establish procedures to assure that every legislative proposal on a matter for which the Commission has primary responsibility is reviewed to assess the need for an environmental impact statement and that, where need exists, and environmental impact statement is developed to assure timely consideration of environmental factors.

(e) Parties seeking information or status reports on environmental impact statements and other elements of the NEPA process, should contact the Assistant General Counsel for Litigation and Environmental Policy.

§ 1.89 Effect on prior actions.

It is the policy of the Commission to apply these procedures to the fullest extent possible to proceedings which are already in progress.

By direction of the Commission dated January 5, 1982.

Carol M. Thomas,

Secretary.

[FR Doc. 82-1546 Filed 1-21-82; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33-6375, File No. S7-890]

Automatic Effectiveness of Post-Effective Amendments Filed by Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of amendments to rule.

SUMMARY: The Securities and Exchange Commission is adopting today amendments to the rule governing automatic effectiveness of post-effective amendments to registration statements filed by registered open-end management investment companies and unit investment trusts, other than insurance company separate accounts. The amendments provide that, under certain conditions, the filing of a post-effective amendment containing a prospectus during the pendency of a prior post-effective amendment relating to the same prospectus would not prevent the prior amendment from becoming effective automatically. The Commission is adopting these amendments primarily to facilitate the process by which an open-end investment company updates its prospectus in order to use the prospectus as the equivalent of an annual report to shareholders.

EFFECTIVE DATE: January 22, 1982.

FOR FURTHER INFORMATION CONTACT: Kathleen A. Jackson, Special Counsel, (202) 272-2115 or Susan P. Hart, Attorney, (202) 272-2098, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On July 14, 1981 the Commission published for comment amendments to paragraphs (b) and (d) of rule 465 [17 CFR 230.465] under the Securities Act of 1933 ("1933 Act") [15 U.S.C. 77a et seq.].[1] The Commission received two comment letters relating to the proposal. Both commentators supported the proposed amendments, however, each suggested additional changes to the rule. The additional revisions suggested by the commentators have been addressed by the Commission in a release proposing a new rule, 466, under the 1933 Act and additional amendments to rule 465.[2] The Commission today is adopting the proposed amendments without change.

The amendments to rule 465(d) provide that the filing of a post-effective amendment containing a prospectus during the pendency of a prior post-effective amendment relating to the same prospectus would not suspend the sixty-day waiting period initiated by the filing of the prior amendment, provided that the subsequent amendment is filed pursuant to paragraph (b) of rule 465 and that it designates as its effective date the same day as the anticipated effective date of the prior filing. Paragraph (b) of rule 465, as amended, makes the subsequent amendment eligible for filing under that provision.

The amendments to rule 465 permit an investment company to file a post-effective amendment under paragraph (a) which contains an updated narrative portion of its prospectus but no updated financial statements, and then, before such amendment has become effective, to file a subsequent post-effective amendment pursuant to paragraph (b) containing updated financial statements in addition to the updated narrative. The two amendments would become effective simultaneously, the same day as the anticipated effective date of the amendment filed under paragraph (a). These changes are intended to facilitate the process by which an investment company brings its prospectus up to date when it has experienced a material event requiring disclosure under paragraph (a) but does not have complete or updated financial statements sixty days prior to the desired date of effectiveness.

Any subsequent amendment filed pursuant to paragraph (b) of rule 465, of course, must meet the criteria set forth in the amended rule for filing pursuant to that section. When a post-effective amendment is filed under paragraph (a) and the registrant intends to file an amendment under paragraph (b) to update the financial statements in the prospectus while the filing under paragraph (a) is still pending, the registrant should state in a cover letter that a post-effective amendment to update the financial statements will be filed pursuant to paragraph (b) and on what approximate date the registrant anticipates that such amendment will be filed. In addition, to facilitate the review process, the registrant should state in a cover letter accompanying the subsequent filing under paragraph (b) that it is filed for the purpose of updating the financial statements of a prospectus for which a post-effective amendment is pending under paragraph (a), and the date on which the post-

[1] Securities Act Release No. 6327 (July 8, 1981) [46 FR 36195, July 14, 1981]

[2] Securities Act Release No. 6376 published under rules and regulations in this issue.

effective amendment pursuant to paragraph (a) was filed.

The text of the proposed amendments has not been changed and the Commission hereby adopts them as set forth below:

By the Commission.

January 11, 1982.

George A. Fitzsimmons,

Secretary.

Text of Amendments to Rule 465

Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. By revising the introductory text of paragraphs (b), (b) (2) and (3), and paragraph (d) of § 230.465 to read as follows:

§ 230.465 Effective date of post-effective amendments filed by certain registered investment companies.

* * * * *

(b) Except as otherwise provided in this section, a post-effective amendment to a registration statement filed by a registered open-end management investment company or unit investment trust, other than a registered separate account as defined in section 2(a)(37) of the Investment Company Act of 1940 [15 U.S.C. 80a-2(a)(37)], shall become effective on the date upon which it is filed with the Commission, or such later date designated by the registrant on the facing sheet of the amendment, which date shall be not later than 20 days after the date on which the amendment is filed, provided that the following conditions are met:

* * * * *

(2) Any prospectus filed as a part of such amendment does not include disclosure relating to any of the following events to the extent that such events have occurred since the effective date of the registrant's registration statement or the effective date of its most recent post-effective amendment thereto which included a prospectus, whichever is later, unless such events are disclosed in a post-effective amendment filed pursuant to paragraph (a) of this section which has not yet become effective:

* * * * *

(3) The registrant represents that no material event requiring disclosure in the prospectus, other than one listed in paragraph (b)(1) of this section, has occurred since the latest of the following three dates: (i) the effective date of the registrant's registration statement; (ii) the effective date of its most recent post-effective amendment to its registration statement which included a prospectus; or (iii) the filing date of a post-effective amendment filed pursuant to paragraph (a) of this section which has not yet become effective; and

* * * * *

(d)(1) Except as provided in paragraph (d)(2) of this section, a post-effective amendment which includes a prospectus shall not become effective pursuant to paragraph (a) of this section if a subsequent post-effective amendment relating to such prospectus is filed before such amendment becomes effective.

(2) A post-effective amendment which includes a prospectus shall become effective pursuant to paragraph (a) of this section notwithstanding the filing of a subsequent post-effective amendment relating to such prospectus, *Provided,* That such subsequent amendment is filed pursuant to paragraph (b) of this section, *And provided further,* That such subsequent amendment designates as its effective date the date on which the prior post-effective amendment shall become effective pursuant to paragraph (a). If another post-effective amendment relating to the same prospectus is filed pursuant to paragraph (a) of this section before the prior amendments filed pursuant to paragraphs (a) and (b) of this section have become effective, neither the prior amendment filed pursuant to paragraph (a) nor the amendment filed pursuant to paragraph (b) shall become effective pursuant to this section.

* * * * *

Statutory Authority

The Commission hereby adopts amendments to rule 465 pursuant to the provisions of sections 7, 8 and 19(a) of the Securities Act of 1933 [15 U.S.C. 77g, 77h and 77s(a)].

[FR Doc. 82-1585 Filed 1-21-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulation No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Eligibility; Amount of Benefits; Residence and Citizenship

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: We are revising and reorganizing our general rules on eligibility (Subpart B) under the Supplemental Security Income (SSI) program. These rules describe who may get SSI benefits, how long a person's eligibility lasts, and the reasons why a person who would otherwise be eligible for SSI benefits might not get them. We have also established a new Subpart P in which we state our rules on residence and citizenship.

We have determined that these regulations do not meet the criteria for a major regulation specified in Executive Order 12291.

EFFECTIVE DATE: These regulations are effective January 22, 1982.

FOR FURTHER INFORMATION CONTACT: Rita Hauth, Legal Assistant, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-7112.

SUPPLEMENTARY INFORMATION: We published the notice of proposed rulemaking (NPRM) covering the recodification of Subpart B, the addition to Subpart D, and the new Subpart P on September 4, 1980 (45 FR 58563). A correction of a typographical error was published on September 16, 1980 (45 FR 61315). These final regulations also include the rules on redeterminations of eligibility published with interim effect on November 7, 1979 (44 FR 64402). Comments received on these publications are discussed later in this preamble.

We have retitled, rearranged, and rewritten the rules in Subpart B to simplify, and clarify the rules that have been in effect. In addition, we moved rules on benefit amounts which were in Subpart B to Subpart D where similar rules are covered and we created a new Subpart P for the specific rules on residence and citizenship. On October 29, 1981, we published an NPRM at 46 FR 53449 which proposes to change sections of prior regulations to reflect that, in April 1982, determinations of eligibility will be on a monthly basis rather than a quarterly basis. The change is required by section 2341 of Pub. L. 97-35 which establishes retrospective monthly accounting. The final regulations to implement retrospective monthly accounting will include technical changes to make it conform with the rearranged sections in this final rule on eligibility.

Definitions

We have added a new § 416.201 to define terms that are used throughout Subpart B. We use the term "resident" rather than "inmate" to identify individuals who live in public institutions. We have clarified the definition of "resident of a public institution" to make it clear that an individual need not receive the treatment and services provided by an institution in order to be a resident. The definition also states that an individual is a resident regardless of whether the institution receives payment for whatever it provides. These definitions have been long standing policy but were not clearly stated in previous regulations.

The Federal Court of Appeals in *Levings* v. *Califano* held that the beneficiary did not meet the definition of an inmate of a public institution and was therefore eligible for SSI benefits because she resided there voluntarily and paid for any services the institution provided. SSA complied with the decision of the court for this particular case but has not changed existing policy for other beneficiaries in public institutions. We do not believe that Congress intended such a restrictive definition of "inmate". We believe that Congress intended that SSI benefits not be paid to individuals in public institutions whose needs were already being met by other public funds or by some other source. We, therefore, published a ruling of non-acquiescence in April 1980 (SSR 80-11c (Cumulative Edition 1980)). We further discuss our use of the term "resident" and non-payment of benefits to individuals who live in public institutions later in this preamble in our response to comments received following publication of the NPRM.

Initial Determinations and Redeterminations of SSI Eligibility

Section 416.203 explains what happens when a person applies for SSI benefits and when eligibility begins. Section 416.204 explains how and when we conduct redeterminations to make sure that a person is still eligible for benefits. This section includes the changes made by the interim rules published November 7, 1979 (44 FR 64402).

Reasons Why Persons May Not Get SSI Benefits for Which They Are Otherwise Eligible

Sections 416.210 through 416.214 explain that persons may not receive SSI benefits if: (1) They do not apply for all other benefits for which they may be eligible, (2) they are residents of a public institution, (3) they do not accept vocational rehabilitation services, (4) they (the disabled only) are medically determined drug addicts or alcoholics and do not accept or follow treatment, or (5) they leave the United States for a calendar month or 30 consecutive days. All of these rules are consistent with the purpose of the Supplemental Security Income program—to establish a national program to provide income to aged, blind, or disabled residents of the United States who have limited income and resources. Persons having a right to another kind of income are expected to do whatever is necessary to get it. Beneficiaries are also expected to do what they can to overcome the handicaps of disability, alcoholism, or drug addiction.

Individuals who are residents of public institutions throughout a month are not eligible for SSI benefits because of a specific provision in the statute. In defining "throughout a month" previous regulations provided that a resident had to remain in an institution continuously for 24 hours a day. We omitted the "24 hours a day" in these regulations to make the rule conform to the current practice of encouraging residents to engage in recreational and therapeutic activities outside the institution.

Qualified Individuals and Essential Persons

The rules in §§ 416.220 through 416.224 apply only to individuals who received State assistance payments for the aged, blind, or disabled for December 1973. Some of these individuals had received an increased amount of State assistance to provide for someone to live with them and give them needed care and attention. These persons may continue to receive an additional amount along with their SSI benefits. We call a person to whom we are paying SSI benefits under these circumstances a "qualified individual" and we call the one providing the necessary care an "essential person". The rules describe how both are affected under the SSI Program and what happens if a person no longer has an essential person.

Rate of SSI Benefit Payment for Certain Eligible Persons in Medical Care Facilities

Persons in medical care facilities (hospitals, skilled nursing facilities, intermediate care facilities) where Medicaid pays over 50 percent of their costs may be eligible for SSI benefits at a reduced rate. These rules were formerly located in Subpart B but are being moved to Subpart D, "Amount of Benefits" so that all information on benefit rates is in a single location.

Residence and Citizenship

We made a new Subpart P for the rules relating to residence and citizenship for SSI purposes. We have relocated these rules to give them equal emphasis with other eligibility requirements. We have retitled, rearranged, and rewritten them for greater clarity. We have also expanded the rules to include information that has been part of operating instructions. Since publication of the NPRM we have renumbered sections in this subpart to separate the subjects discussed and to provide for any future insertions that may be required by legislation or other policy changes.

To be eligible for SSI, individuals must reside in the United States (the 50 States, the District of Columbia, and the Northern Mariana Islands). In § 416.1603 we list kinds of evidence that prove residence in the United States. In response to a comment, we explain that an address in the United States may be sufficient to establish residence but that evidence will be required if a question arises. In response to another comment received following publication of the NPRM we have added § 416.1605 to explain that an individual must reside in the United States for at least 30 days in a row to establish or reestablish eligibility for SSI benefits. This rule was only in Subpart B in the NPRM and the rules in Subpart P were incomplete.

The statute also requires that an individual must be a citizen or national of the United States or have been admitted for permanent residence or be permanently residing in the United States under color of law to be eligible for SSI benefits. Section 416.1610 lists the kinds of evidence that prove citizenship and explains how residents of the Northern Mariana Islands establish that they are citizens of the United States. Section 416.1615 lists the kinds of evidence necessary to prove admission for permanent residence in the United States.

Section 416.1618 lists the kinds of evidence that prove permanent residence in the United States under color of law. These are principally documents issued by the Immigration and Naturalization Service (INS). In addition, permanent residence under color of law is established by proof of an individual's presence in the United States both before and continuously after June 30, 1948. These guidelines have been used by personnel in social security offices but all were not included in regulations.

Comments Received Following Publication of the Notice of Proposed Rulemaking (Published September 4, 1980 (45 FR 58563))

We received comments from four legal services, three State offices, two social service agencies, and one university department of gerontology. The commenters approved the clear language and the reorganization of the regulations. Each questioned one or more provisions of the regulations or suggested improvements. We have arranged the comments and our responses in the same order as the sections of the regulations and have cited the appropriate sections in the remarks or following the comment.

Comment. Five commenters, legal services and social service agencies, object to the rules on non-payment of SSI benefits to individuals who live in public institutions. Several cited *Levings* v. *Califano* in which the court ruled that an individual was not an "inmate" of a public institution because she paid for her stay in the institution. Most of the commenters also objected to the substitution of "resident" for "inmate" as they believed it to be an attempt to circumvent the court decision. Some suggested that publication of the revised rules should be deferred pending the Supreme Court decision on *Wilson* v. *Harris* (now *Schweiker* v. *Wilson*). One commenter said that these rules constitute a policy change and, therefore, should not be included in a recodification of regulations. (§§ 416.201 and 416.211)

Response. The Social Security Administration has applied the rules as stated in these regulations since the SSI program began in 1974. On August 9, 1973, the Commissioner of Social Security issued a decision which stated the policy and explained its basis as follows:

> * * * strong consideration was given to modifying the definition somewhat to allow an exception from "inmate" status for individuals who are in public institutions but paying for the cost of their care with title XVIII (Medicare) benefits, private insurance benefits, personal or family funds * * *. This would place the individual on par with one paying his own way in a private institution. However, we are not proposing this modification because of the general concern * * * that making supplemental security income payments to a person who is in a public institution for a full calendar month or longer would not aid the recipient but would in fact aid only the public institution which would use the benefits to offset its costs in maintaining the individual. Such an institution often establishes its charges for a needy individual based on the income available to that individual. Consequently, should the individual be eligible for a supplemental security income payment, the institutional charge would be greater than if such payment was not available and the program benefits would accrue to the institution and not the recipient. * * *

SSA continues to believe that this policy properly implements the statute. American Heritage Dictionary defines "inmate" as: "1. a resident in a building or dwelling. 2. A person confined to an institution such as a prison, hospital, or asylum." Webster's unabridged dictionary gives similar definitions with the third, and last, relating to confinement. Thus, "inmate" and "resident" can have the same meaning. Use of one or the other does not change the impact of the rules but "resident" imparts more dignity to the individual. It should also be noted that while section 1611(e)(1)(A) of the Act refers to "inmates," the exception to the definition of public institution in section 1611(e)(1)(C) refers to those persons as "residents". Thus, Congress has used "inmate" and "resident" interchangeably in the same section.

Since publication of the NPRM the Supreme Court has rendered its decision on *Schweiker* v. *Wilson* (101 S. Ct. 1074 (1981)). This case concerned Medicaid eligibility and payment of reduced benefits ($25 per month) to certain individuals in public mental institutions. The court held that sections 1611(e)(1) (A) and (B) of the Social Security Act are constitutional, that payment of the $25 reduced benefit can properly be limited to individuals who are in public mental institutions and are supported by Medicaid. The opinon of the court does not affect these regulations.

While not applicable to these particular rules, a recodification of regulations is a proper vehicle for changes in policy. SSA publishes recodifications of regulations as notices of proposed rulemaking so that interested persons can comment before the final rules are drafted and published.

Comment. A legal service objects to the filing of an application as a requirement for eligibility. They suggest that the need to file be located with the applications rules. (§ 416.202)

Response. An individual cannot become eligible for SSI benefits unless an application is filed with the Social Security Administration. The previous omission of this as a requirement for eligibility has raised questions. Under the law benefits are paid on the basis of an application.

Comment. A legal service asks that the regulation be expanded to include a statement that income received prior to application is not to be considered in determining eligibility. (§ 416.203)

Response. We explain in § 416.203 what periods are considered when individuals apply for SSI. If they apply in the first month of a calendar quarter eligibility is determined for the quarter. If they apply in the second or third month of a quarter, eligibility is determined on a monthly basis in that quarter beginning with the month of application. Thus, income received prior to the month of application is not income as of the month of application. Income received in or after the month of application is counted as income. The rules on income are explained in detail in Subpart K of Part 416 of the Code of Federal Regulations. If income was received prior to the month or quarter of application and is still available to the individual, it is a resource and may affect eligibility. Rules on resources are in Subpart L of these regulations.

Comment. A State suggested that redetermination plans and schedules should be a mutual effort between SSA and the States. (§ 416.204)

Response. We recognize that SSA and States share interest in preventing payment errors but a mutual effort would be impractical. As we explain in our response to comments in the next section of this preamble, the selection of redeterminations is a computer process and is on both a regional and national basis. The experiences of the States within a region are considered and the selection is pinpointed to an area even though not to individual States. In any event, annual redeterminations remain the standard with only those beneficiaries likely to have little payment error scheduled less frequently (at three-year intervals).

Comment. A State questions the rule in § 416.210 which states that individuals need not reapply for other benefits if they applied in the past and the reasons they were turned down have not changed. The State believes that individuals should always be required to reapply for other benefits since the rules for the other benefits may change. They suggest a time limit, for example, that indivdiuals who have been denied benefits within a year need not reapply.

Response. If there is any possibility of a change in eligibility rules for other benefits, individuals are required to reapply. The exception to having to reapply is limited to the kinds of situations that do not change.

Social Security office employees are informed about changes in Federal programs such as railroad retirement and veterans' programs and know whether reapplication could be productive.

We believe a time limit would be impractical. Some eligibility requirements may have changed recently and others may never change.

Comment. A State believes that there is a conflict between the rules on essential persons and those on a temporary absence for medical treatment. They ask how an essential person's increment is paid if the qualified individual is temporarily, but throughout a month, receiving treatment in an institution and supported by Medicaid. (§§ 416.221–416.223, and 416.414)

Response. If a qualified individual is in an institution throughout a month and is supported by Medicaid, he or she is eligible to receive only the reduced benefit of $25 for that month. The individual does not need the services of the essential person and the increment is not added to the $25. The qualified person can again receive the essential person increment on returning from the institution to the former living arrangement. The essential person does not receive a payment directly.

Comment. The institute of gerontology and a legal service question the need for an applicant to prove residence in the United States. Both point out that many individuals live with others and cannot supply any of the kinds of evidence listed in § 416.1603.

Response. We have revised this section to state that an address in the United States may be sufficient to establish residence in the United States. This has been the existing policy and we did not intend to change it. We wanted to spell out what kinds of evidence will establish residence if a question arises. Residence in the United States is a statutory requirement for eligibility so it must be established. The information some individuals give us raises questions as to where they actually live.

Comments. A State Department of Social Services suggests that the 30-day rule for residence in the United States be stated in Subpart P (Residence and Citizenship) in addition to Subpart B (Eligibility). (§ 416.1602)

Response. We agree that the rules on residence and presence in the United States should be covered in Subpart P so we have added § 416.1605. This section states that an individual must live in the United States for at least 30 days in a row to be considered a resident. It also explains the effects of absence from and return to the United States.

Comments Received Following Publication of Interim Regulations on Redeterminations of Eligibility (Published November 7, 1979 (44 FR 64403))

We received comments from four State offices and a legal service. All approved of extending the period between redeterminations but raised questions or suggested some changes. We do not cite sections of regulations in this section since the comments are general.

Comment. Several States and a legal aid service suggested that the criteria for scheduling redeterminations be made available to States and the public. Some also suggested that beneficiaries be advised as to when to expect a redetermination.

Response. The scheduling of redeterminations is a highly sophisticated computer process similar to quality control programs set up by a number of States. Error profiles are developed each year for each region. Redeterminations are scheduled depending on the error profiles and releases are staggered over the year. After an initial application, redeterminations will be scheduled within three to eleven months. Thereafter, the general rule is that redeterminations will be conducted annually, not necessarily in the anniversary month because of the computer process selections. A small percentage of beneficiaries now have redeterminations less frequently because they are in situations already identified by the profile process as having low payment errors. Even some of these are scheduled annually if the individual record includes a complicating factor.

More experience with error profiles is necessary before other low error profiles can be determined to justify less frequent redeterminations.

The complex process makes it impossible to foretell when an individual redetermination will be scheduled. Interviewers in social security offices explain the general rules so that beneficiaries know what to expect.

Comment. A State Department of Administration suggested that annual redeterminations be eliminated, that all be scheduled on the basis of the likelihood of error or on receipt of information that suggests a change in eligibility.

Response. SSA does schedule redeterminations on the basis of the likelihood of error. Those records likely to be subject to error are scheduled annually; those less likely to produce errors are scheduled every three years. Annual contacts have been very productive in revealing changes in circumstances that affect benefit payments. Many beneficiaries do not understand or remember what changes in their circumstances affect their benefits. The annual contacts may also be helpful to beneficiaries who do not keep up with various other programs that provide needed services.

Comment. A State suggested that exchange of information between SSA and States should be timely and accurate. This State also suggested that eligibility redeterminations for title XIX (Medicaid) and tile XX (social services) be revised to reduce State administrative costs.

Response. SSA exchanges information with States as timely and accurately as possible. There is a continuing effort to improve this exchange, to make it more valuable to Federal and State offices. SSA does not administer title XIX or title XX eligibility redeterminations. Any problem areas with SSA should be brought to our attention and those in other program areas should be brought to the attention of the appropriate program offices. We need to know of problems to be able to correct them.

Comment. A State recommends that SSA appraise its functions in regard to initial determinations and redeterminations to reduce errors. It also recommends the development of "error prone" criteria.

Response. SSA maintains on-going appraisal programs in all its operations with particular attention to SSI cases. Gathering data takes time and experience and we are accumulating it. The development of the error profiles and the adoption of the computer process for scheduling redeterminations are major steps in our efforts and should reduce errors.

Comments. A State Department of Public Health asks that SSA collect more complete medical resource information at initial filing or on redeterminations.

Response. Review of medical data is not part of the redetermination process described in these regulations. When an applicant is found to be disabled and eligible for SSI benefits the nature and extent of the disability determines when a review of the disabling condition will be scheduled. We call this a continuing disability investigation. Redeterminations as they apply to Subpart B regulations are reviews of eligibility other than the disabling condition. It is possible for a redetermination and a continuing disability investigation to coincide and the necessary information for both will be obtained at the same time but subsequent actions differ. A redetermination may be completely processed in a social security office but a continuing disability investigation requires expert medical review not available in the Social Security office. We have added a statement to § 416.204 to clarify that continuation of disability reviews are not part of the usual redetermination process.

While not related to these regulations, we are conducting studies to try to make the data on medical evidence more helpful to those who must decide whether an individual is disabled.

Comment. A legal aid service proposes that SSA verify information received from a third party before scheduling a redetermination.

Response. When SSA receives a third-party report that affects the eligibility of an SSI beneficiary, we talk with the beneficiary. We do not automatically conduct a redetermination but will if the circumstances so indicate. Our first contact is with the beneficiary and we seek verification from others if the beneficiary's information is incomplete.

There are no specific reporting or recordkeeping requirements requiring OMB approval in these regulations. All descriptions are general in nature and are treated individually, and in depth, in related existing regulations.

We certify that these regulations do not have a significant impact on small entities because these regulations affect only individuals. Consequently, we have determined that a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act of 1980, is not necessary.

The proposed regulations with these changes are adopted as shown below.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

Dated: October 29, 1981.

John A. Svahn,

Commissioner of Social Security.

Approved: January 4, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

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

Part 416 of Title 20 of the Code of Federal Regulations is amended as follows:

1. Subpart B of Part 416 is revised to read as follows:

Subpart B—Eligibility

General

Authority.—Secs. 1102, 1602, 1611, 1614, and 1631 of the Social Security Act as amended, Secs. 211 and 212 of Pub. L. 93-66, 49 Stat. 647 as amended, 86 Stat. 1465, 86 Stat. 1466, 86 Stat. 1471, and 86 Stat. 1475, 42 U.S.C. 1302, 1381a, 1382, 1382c, and 1383.

Subpart B—Eligibility

General

§ 416.200 Introduction.

You are eligible for SSI benefits if you meet all the basic requirements listed in § 416.202. You must give us any information we request and show us necessary documents or other evidence to prove that you meet these requirements. We determine your eligibility and benefit amount for each calendar quarter on the basis of the income you receive within that quarter. You continue to be eligible and receive benefits unless you lose your eligibility because you no longer meet the basic requirements or because of one of the reasons given in §§ 416.210 through 416.214.

§ 416.201 General definitions and terms used in this subpart.

"Calendar quarter" means a period of three full calendar months beginning with January, April, July, or October.

"Institution" means an establishment that makes available some treatment or services in addition to food and shelter to four or more persons who are not related to the proprietor.

"Medical care facility" means a hospital (defined in section 1861(e) of the Act), a skilled nursing facility (defined in section 1861(j) of the Act), or an intermediate care facility (defined in section 1905(c) of the Act).

"Public institution" means an institution that is operated by or controlled by the Federal government, a State, or a political subdivision of a State such as a city or county. The term "public institution" does not include a publicly operated community residence which serves 16 or fewer residents.

"Resident of a public institution" means a person who can receive substantially all of his or her food and shelter while living in a public institution. The person need not be receiving treatment and services available in the institution and is a resident regardless of whether the resident or anyone else pays for all food, shelter, and other services in the institution. A person is not a resident of a public institution if he or she is living in a public educational institution (as defined in § 404.367(a)) and is enrolled in or registered for the education or vocational training provided by the institution. A "resident" of a public institution means the same thing as an "inmate" of a public institution as used in section 1611(e)(1)(A) of the Social Security Act.

"SSI" means supplemental security income.

"State assistance" means payments made by a State to an aged, blind, or disabled person under a State plan approved under title I, X, XIV, or XVI (AABD) of the Social Security Act which was in effect before the SSI Program.

"We" or "Us" means the Social Security Administration.

"You" or "Your" means the person who applies for or receives SSI benefits or the person for whom an application is filed.

§ 416.202 Who may get SSI benefits.

You are eligible for SSI benefits if you meet all of the following requirements:

(a) You are—

(1) Aged 65 or older (Subpart H);

(2) Blind (Subpart I); or

(3) Disabled (Subpart I).

(b) You are a resident of the United States (§ 416.1602), and—

(1) A citizen or a national of the United States (§ 416.1603);

(2) An alien lawfully admitted for permanent residence in the United States (§ 416.1604); or

(3) An alien permanently residing in the United States under color of law (§ 416.1605).

(c) You do not have more income than is permitted (Subparts K and D).

(d) You do not have more resources than are permitted (Subpart L).

(e) You file an application for SSI benefits (Subpart C).

§ 416.203 Initial determinations of SSI eligibility.

(a) *What happens when you apply for SSI benefits.* When you apply for SSI benefits we will ask you for documents and any other information we need to make sure you meet all the requirements. We will ask for information about your income and resources and about other eligibility requirements and you must answer completely. We will help you get any documents you need but do not have.

(b) *How we determine your eligibility for SSI benefits.* If you apply for SSI benefits in the first month of a calendar quarter, we determine your eligibility for the whole calendar quarter. If you apply for benefits in the second or third month of the calendar quarter, we determine your eligibility for SSI benefits separately for each month in that calendar quarter. After the first quarter, we determine your eligibility for whole calendar quarters.

§ 416.204 Redeterminations of SSI eligibility.

(a) *Redeterminations defined.* A redetermination is a review of your eligibility to make sure that you are still eligible and that you are receiving the right amount of SSI benefits. This review deals with the requirements for eligibility other than whether you are still disabled or blind. Continuation of disability or blindness reviews are discussed in §§ 416.989 and 416.990.

(b) *When we make redeterminations.* (1) We redetermine your eligibility on a scheduled basis at periodic intervals. The length of time between scheduled redeterminations varies depending on the likelihood that your situation may change in a way that affects your benefits.

(2) We may also redetermine your eligibility when you tell us (or we otherwise learn) of a change in your situation which affects your eligibility or the amount of your benefit.

(c) *The period for which a redetermination applies.* (1) The first redetermination applies to—

(i) The calendar quarter in which we make the redetermination;

(ii) All the calendar quarters after the calendar quarter of first eligibility; and

(iii) Future calendar quarters until the second redetermination.

(2) All other redeterminations apply to—

(i) The calendar quarter in which we make the redetermination;

(ii) All the calendar quarters that came after the last time we made a redetermination; and

(iii) Future calendar quarters until the next redetermination.

(3) If we made two redeterminations which cover the same calendar quarter, the later redetermination is the one we apply to that quarter.

Reasons Why You May Not Get SSI Benefits for Which You Are Otherwise Eligible

§ 416.210 You do not apply for other benefits.

(a) *General rule.* You are not eligible for SSI benefits if you do not apply for all other benefits for which you may be eligible.

(b) *What "other benefits" includes.* "Other benefits" includes annuities, pensions, retirement benefits, and disability benefits. For example, veterans' compensation and pensions; worker's compensation payments; retirement, survivors, and disability insurance benefits; and unemployment insurance benefits are all "other benefits".

(c) *Our notice to you.* We will give you a dated, written notice that will tell you about any other benefits that we think you are likely to be eligible for. In addition, the notice will explain that your eligibility for SSI benefits will be affected if you do not apply for those other benefits.

(d) *What you must do to apply for other benefits.* In order to apply for other benefits, you must file any required applications and do whatever else is needed so that your eligibility for the other benefits can be determined. For example, if any documents (such as a copy of a birth certificate) are required in addition to the application, you must submit them.

(e) *What happens if you do not apply for the other benefits.* (1) If you do not apply for the other benefits within 30 days from the day that you receive our written notice, you are not eligible for SSI benefits. This means that if you are applying for SSI benefits, you cannot receive them. If you are receiving SSI benefits, your SSI benefits will stop. In addition, you will have to repay us for any SSI benefits that you received beginning with the month that you received our written notice. We assume (unless you prove otherwise) that you received our written notice 5 days after the date shown on the notice. We will also find that you are not eligible for SSI benefits if you file the required application for other benefits but do not take other necessary steps to obtain them.

(2) We will not find you ineligible for SSI benefits if you have a good reason for not applying for the other benefits within the 30-day period or taking other necessary steps to obtain them. You may have a good reason if, for example—

(i) You are incapacitated (because of illness you were not able to apply); or

(ii) It would be useless for you to apply (you once applied for the benefits and the reasons why you were turned down have not changed).

§ 416.211 You are a resident of a public institution.

(a) *General rule.* You are not eligible for SSI benefits for any month throughout which you are a resident of a public institution (defined in § 416.201). By "throughout" a month we mean that you reside in an institution as of the beginning of a month and stay the entire month. If you have been a resident of an institution, you remain a resident if you are transferred from one public institution to another or if you are temporarily absent for a period of not more than 14 consecutive days. A person also is a resident of an institution throughout a month if he or she is born in the institution during the month and resides in the institution the rest of the month or resides in the institution as of the beginning of a month and dies in the institution during the month.

(b) *Exception for medical care facilities.* You may be eligible for SSI benefits at the reduced rate described in § 416.414 if—

(1) The public institution in which you reside throughout a month—

(i) Is a medical care facility; and

(ii) Medicaid (title XIX of the Act) pays a substantial part (more than 50 percent) of the cost of your care; or

(2) You reside for part of a month in a public institution and for the rest of the month are in a public or private medical care facility where Medicaid pays more than 50 percent of the cost of your care.

(c) *Exception for publicly operated community residences which serve no more than 16 residents.* (1) *General rule.* If you are a resident of a publicly operated community residence which serves no more than 16 residents, you may be eligible for SSI benefits.

(2) *Services that a facility must provide in order to be a community residence.* To be a community residence, a facility must provide food and shelter. In addition, it must make available some other services. For example, the other services could be—

(i) Social services;

(ii) Help with personal living activities;

(iii) Training in socialization and life skills; or

(iv) Providing occasional or incidental medical or remedial care.

(3) "*Serving no more than 16 residents*". A community residence serves no more than 16 residents if—

(i) It is designed and planned to serve no more than 16 residents, or the design and plan were changed to serve no more than 16 residents; and

(ii) It is in fact serving 16 or fewer residents.

(4) *"Publicly operated"*. A community residence is publicly operated if it is operated or controlled by the Federal government, a State, or a political subdivision of a State such as a city or county.

(5) *Facilities which are not a "publicly operated community residence"*. If you live in any of the following facilities, you are not a resident of a publicly operated community residence:

(i) A residential facility which is on the grounds of or next to a large institution or multipurpose complex;

(ii) An educational or vocational training institution whose main function is to provide an approved, accredited, or recognized program to some or all of those who live there;

(iii) A jail or other facility in which your personal freedom is restricted because you are a prisoner, are being held under court order, or are being held until charges against you are disposed of; or

(iv) A medical care facility (defined in § 416.201).

§ 416.212 You do not accept vocational rehabilitation services.

If you are disabled or blind, you must accept any appropriate vocational rehabilitation services offered to you by the State agency to which we refer you. If you refuse these services, you are not eligible for benefits unless you have a good reason for not accepting them. The rules on vocational rehabilitation services are in Subpart Q.

§ 416.213 You are disabled and a medically determined drug addict or alcoholic and you do not accept or follow treatment.

If you receive benefits because you are disabled and you are a medically determined drug addict or alcoholic, you must accept any appropriate treatment for your drug addiction or alcoholism that we make available to you. So long as you refuse the treatment, you are not eligible to receive SSI benefits. The rules regarding treatment for drug addiction and alcoholism are in Subpart I.

§ 416.214 You leave the United States.

You lose your eligibility for SSI benefits for any month during all of which you are outside of the United States. If you are outside of the United States for 30 days or more in a row, you are not considered to be back in the United States until you are back for 30 days in a row. You may again be eligible for SSI benefits in the month in which the 30 days end if you continue to meet all other eligibility requirements.
By "United States" we mean the 50 States the District of Columbia, and the Northern Mariana Islands.

Eligibility for Increased Benefits Because of Essential Persons

§ 416.220 General.

If you are a "qualified" individual and have an essential person you may be eligible for increased benefits. You may be a qualified individual and have an essential person only if you received benefits under a State assistance plan approved under title I, X, XIV, or XVI (AABD) of the Act for December 1973. Definitions and rules that apply to qualified individuals and essential persons are discussed in §§ 416.221 through 416.223.

§ 416.221 Who is a qualified individual.

You are a qualified individual if—

(a) You received aid or assistance for the month of December 1973 under a State plan approved under title I, X, XIV, or XVI (AABD) of the Act;

(b) The State took into account the needs of another person in deciding your need for the State assistance for December 1973;

(c) That other person was living in your home in December 1973; and

(d) That other person was not eligible for State assistance for December 1973.

§ 416.222 Who is an essential person.

(a) *General rule.* A person is an essential person if—

(1) That person has continuously lived in the home of the same qualified individual since December 1973;

(2) That person was not eligible for State assistance for December 1973;

(3) That person was never eligible for SSI benefits in his or her own right or as an eligible spouse; and

(4) There are State records which show that under a State plan in effect for June 1973, the State took that person's needs into account in determining the qualified individual's need for State assistance for December 1973.
Any person who meets these requirements is an essential person. This means that the qualified individual can have more than one essential person.

(b) *Absence of an essential person from the home of a qualified individual.* An essential person may be temporarily absent from the house of a qualified individual and still be an essential person. For example, the essential person could be hospitalized. We consider an absence to temporary if—

(1) The essential person intends to return;

(2) The facts support this intention;

(3) It is likely that he or she will return; and

(4) The absence is not longer than 90 days.

(c) *Absence of a qualified individual from his or her home.* You may be temporarily absent from your home and still have an essential person. For example, you could be hospitalized. We consider an absence to be temporary if—

(1) You intend to return;

(2) The facts support your intention;

(3) It is likely that you will return; and

(4) Your absence does not exceed six months.

(d) *Essential person becomes eligible for SSI benefits.* If an essential person becomes eligible for SSI benefits, he or she will no longer be an essential person beginning with the month that he or she becomes eligible for the SSI benefits.

§ 416.223 What happens if you are a qualified individual.

(a) *Increased SSI benefits.* We may increase the amount of your SSI benefits if—

(1) You are a qualified individual; and

(2) You have one or more essential persons in your home.
In Subpart D, we explain how these increased benefits are calculated.

(b) *Income and resource limits.* If you are a qualified individual, we consider the income and resources of an essential person in your home to be yours. You are eligible for increased SSI benefits if—

(1) Your resources which are counted do not exceed the limit for SSI eligibility purposes (see Subpart L); and

(2) Your income which is counted for SSI eligibility purposes (see Subpart K) does not exceed the sum of—

(i) The SSI Federal benefit rate (see Subpart D); and

(ii) The proper number of essential person increments (for the value of an essential person increment see Subpart D). One essential person increment is added to the SSI Federal benefit rate for each essential person in your home.

(c) *Excluding the income and resources of an essential person.* (1)

While an essential person increment increases your SSI Federal benefit rate, that person's income which we consider to be yours may actually result in a lower monthly payment to you. We will discuss this with you and explain how an essential person affects your benefit. If you choose to do so, you may ask us in writing to determine your eligibility without your essential person or, if you have more than one essential person, without one or more of your essential persons. We will then figure the amount of your SSI benefits without counting as your own income and resources of the essential persons that you specify and we will end the essential person increment for those essential persons. You should consider this carefully because once you make the request, you cannot withdraw it. We will make the change beginning with the month following the month that you make the request.

(2) We will not include the income and resources of the essential person if the person's income or resources would cause you to lose your eligibility. The loss of the essential person increment will be permanent.

2. The authority citation for Subpart D of Part 416 reads as follows:

Authority: Sections 1102, 1611, 1612, and 1631 of the Social Security Act as amended; 49 Stat. 647 as amended, 86 Stat. 1466, 86 Stat. 1468, 86 Stat. 1475; 42 U.S.C. 1302, 1382, 1382a, and 1383.

3. In Subpart D a new § 416.414 is added to read as follows:

§ 416.414 Amount of benefits; eligible individual or eligible couple in a medical care facility.

(a) *General rule.* There is a reduced SSI benefit rate for persons who are in medical care facilities where more than 50 percent of the cost of their care is paid by a State plan approved under title XIX of the Social Security Act (Medicaid). Persons to whom this benefit rate applies are—

(1) Those who are otherwise eligible and who are in the medical care facility throughout a month (By "throughout a month" we mean that you are in the medical care facility as of the beginning of the month and stay the entire month. If you are in a medical care facility you will be considered to have continuously been staying there if you are transferred from one medical care facility to another or if you are temporarily absent for a period of not more than 14 consecutive days.); and

(2) Those who reside for part of a month in a public institution and for the rest of the month are in a public or private medical care facility where Medicaid pays more than 50 percent of the cost of their care.

(b) *The benefit rates are—*

(1) *Eligible individual.* The benefit rate for an eligible individual with no eligible spouse is $300 per year. The benefit payment is figured by subtracting the eligible individual's countable income (see Subpart K) from the benefit rate.

(2) *Eligible couple both in medical care facilities.* The benefit rate for a couple is $600 a year. The benefit payment is figured by subtracting the couple's countable income (see Subpart K) from the benefit rate.

(3) *Eligible couple with one spouse in a medical care facility.* The couple's benefit rate equals:

(i) $300 per year for the spouse in the medical care facility; plus

(ii) The benefit rate for an eligible individual (see § 416.410) for the spouse who is not in the medical care facility. The benefit payment for each spouse is figured by subtracting each individual's own countable income from his or her portion of the benefit rate shown in subparagraphs (i) and (ii) of paragraph (b)(3).

(c) *Definition.* For purposes of this section a "medical care facility" means a hospital (see section 1861(e) of the Act), a skilled nursing facility (see section 1861(j) of the Act) or an intermediate care facility (see section 1905(c) of the Act).

(Secs. 1102, 1611, and 1631 of the Social Security Act as amended, 49 Stat. 647, as amended, 86 Stat. 1466 as amended, 86 Stat. 1475, 42 U.S.C. 1302, 1382, and 1383)

4. A new Subpart P is added to Part 416 to read as follows:

Subpart P—Residence and Citizenship

Authority: Secs. 1102, 1614, and 1631 of the Social Security Act as amended, 49 Stat. 647 as amended, 86 Stat. 1471, and 86 Stat. 1475, 42 U.S.C. 1302, 1382c, and 1383.

Subpart P—Residence and Citizenship

§ 416.1600 Introduction.

You are eligible for supplemental security income (SSI) benefits if you meet the requirements in Subpart B. Among these are requirements that you must be a resident of the United States and either a citizen, a national, or an alien with a lawful right to reside permanently in the United States. In this subpart, we tell you what kinds of evidence show that you are a resident of the United States (see § 416.1603) and—

(a) A citizen or a national of the United States (see § 416.1610);

(b) An alien lawfully admitted for permanent residence in the United States (see § 416.1615); or

(c) An alien permanently residing in the United States under color of law (see § 416.1618).

§ 416.1601 Definitions and terms used in this subpart.

"We" or "Us" means the Social Security Administration.

"You" or "Your" means the person who applies for or receives SSI benefits or the person for whom an application is filed.

§ 416.1603 How to prove you are a resident of the United States.

(a) *What you should give us.* Your home address in the United States may be sufficient to establish that you are a resident. However, if we have any reason to question that you are a resident of the United States we will ask for evidence. You can prove you are a resident of the United States by giving us papers or documents showing that you live in the United States such as—

(1) Property, income, or other tax forms or receipts;

(2) Utility bills, leases or rent payment records;

(3) Documents that show you participate in a social services program in the United States; or

(4) Other records or documents that show you live in the United States.

(b) *What "resident of the United States" means.* We use the term "resident of the United States" to mean a person who is living within the geographical limits of the United States.

(c) *What "United States" means.* We use the term "United States" in this section to mean the 50 States, the District of Columbia, and the Northern Mariana Islands.

§ 416.1605 How long you must be present in the United States.

You must be present in the United States for 30 days in a row for us to consider you a resident. You lose your eligibility for any month all of which you are outside the United States. If you are outside the United States for 30 days in a row, you are not considered to be back in the United States until you are back for 30 days in a row. You may again be eligible for SSI benefits in the month in which the 30 days ends.

§ 416.1610 How to prove you are a citizen or a national of the United States.

(a) *What you should give us.* You can prove that you are a citizen or a national of the United States by giving us—

(1) A certified copy of your birth certificate which shows that you were born in the United States;

(2) A certified copy of a religious record of your birth or baptism which shows you were born in the United States;

(3) Your naturalization certificate;

(4) Your United States passport;

(5) Your certificate of citizenship;

(6) An identification card for use of resident citizens in the United States (Immigration and Naturalization Service Form I-197); or

(7) An identification card for use of resident citizens of the United States by both or naturalization of parents (INS Form I-179).

(b) *How to prove you are an interim citizen of the United States if you live in the Northern Mariana Islands.* As a resident of the Northern Mariana Islands you must meet certain conditions to prove you are an interim citizen of the United States. You must prove that you were domiciled in the Northern Mariana Islands as required by section 8 of the Schedule of Transitional Matters of the Constitution of the Northern Mariana Islands, or that you were born there after March 6, 1977. By "domiciled" we mean that you maintained a residence with the intention of continuing that residence for an unlimited or indefinite period, and that you intended to return to that residence whenever absent, even for an extended period. You must also give us proof of your citizenship if you are a citizen of the Trust Territory of the Pacific Islands of which the Marianas are a part.

(1) You can prove you were domiciled in the Northern Mariana Islands by giving us—

(i) Statements of civil authorities; or

(ii) Receipts or other evidence that show you were domiciled there.

(2) You can prove that you are a citizen of the Trust Territory of the Pacific Islands by giving us—

(i) Your identification card issued by the Trust Territory of the Pacific Islands and a public or religious record of age which shows you were born in this territory;

(ii) Your voter's registration card;

(iii) A Chammoro Family Record showing your birth in the Trust Territory of the Pacific Islands; or

(iv) Your naturalization certificate.

(c) *What to do if you cannot give us the information listed in paragraph (a) or (b).* If you cannot give us any of the documents listed in paragraph (a) or (b), we may find you to be a citizen or a national of the United States if you—

(1) Explain why you cannot give us any of the documents; and

(2) Give us any information you have which shows or results in proof that you are a citizen or a national of the United States. The kind of information we are most concerned about shows—

(i) The date and place of your birth in the United States;

(ii) That you have voted or are otherwise known to be a citizen or national of the United States; or

(iii) The relationship to you and the citizenship of any person through whom you obtain citizenship.

(d) *What "United States" means.* We use the term "United States" in this section to mean the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, Swain's Island, and the Northern Mariana Islands.

§ 416.1615 How to prove you are lawfully admitted for permanent residence in the United States.

(a) *What you should give us.* You can prove that you are lawfully admitted for permanent residence in the United States by giving us—

(1) An Alien Registration Receipt Card (Immigration and Naturalization Service (INS) Form I-151 or I-551);

(2) A reentry permit; or

(3) An alien identification card issued by the government of the Northern Mariana Islands showing that you are admitted to the Northern Mariana Islands for permanent residence.

(b) *What to do if you cannot give us the information listed in paragraph (a).* If you cannot give us any of the documents listed in paragraph (a), we may find you to be lawfully admitted for permanent residence in the United States if you—

(1) Explain why you cannot give us any of the documents; and

(2) Give us any information you have which shows or results in proof that you are lawfully admitted for permanent residence in the United States.

(c) *What "United States" means.* We use the term "United States" in this section to mean the 50 States, the District of Columbia, and the Northern Mariana Islands.

§ 416.1618 How to prove you are permanently residing in the United States under color of law.

(a) *What you should give us.* You can prove you are permanently residing in the United States under color of law by giving us—

(1) An Arrival-Departure Record (Immigration and Naturalization Service (INS) Form I-94) endorsed "Refugee Conditional Entry" and showing the section of the Immigration and Nationality Act under which you were admitted.

(2) An Arrival-Departure Record (INS Form I-94) endorsed to show that you are paroled for an indefinite period under section 212(d)(5) of the Immigration and Nationality Act;

(3) An Arrival-Departure Record (INS Form I-94) endorsed "Voluntary Departure Granted—Employment Authorized" (this form and an INS letter are given to persons affected by a United States District Court order issued March 10, 1977);

(4) An Arrival-Departure Record (INS Form I-94) endorsed "Admitted as a refugee pursuant to section 207 of the Immigration and Naturalization Act";

(5) An Order of Supervision (INS Form I-220B) which shows you have been granted an indefinite stay of deportation.

(6) Any other letter or document from the Immigration and Naturalization Service showing that you have been granted either an indefinite voluntary departure or an indefinite stay of deportation; or

(7) Proof of your presence in the United States before June 30, 1948, and proof of your continuous residence thereafter.

(b) *What to do if you cannot give us the information listed in paragraph (a).* If you cannot give us any of the documents listed in paragraph (a), we may find you to be permanently residing in the United States under color of law if you—

(1) Explain why you cannot give us any of the documents; and

(2) Give us any information you have which shows or results in proof that you are permanently residing in the United States under color of law. We will contact the Immigration and Naturalization Service to help establish that you meet this color of law rule.

(c) *What "United States" means.* We use the term "United States" in this section to mean the 50 States, the

District of Columbia, and the Northern Mariana Islands.

[FR Doc. 82-1622 Filed 1-21-82; 8:45 am]
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Food and Drug Administration

21 CFR Part 166

[Docket No. 78P-0254]

Margarine Labeling; Extension and Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; extension and confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is extending and confirming the effective date for compliance with the amendment of the margarine labeling regulation which removed those provisions that set forth the names by which certain ingredients in oleomargarine or margarine should be declared. That amendment was published in the **Federal Register** of June 12, 1981.

DATE: The effective date for compliance with the amendment of the margarine standard is July 1, 1985, for all affected products initially introduced or initially delivered for introduction into interstate commerce.

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Campbell, Bureau of Foods (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: A final regulation was published in the **Federal Register** of June 12, 1981 (46 FR 31004) to amend the margarine labeling regulation by removing those provisions, § 166.40(b)(1) through (10) (21 CFR 166.40(b)(1) through (10)), which set forth the names by which certain ingredients in oleomargarine or margarine should be declared. Any person who would be adversely affected could, on or before July 13, 1981, submit written objections to the amendment and, if desired, request a hearing on the specific provisions to which there were objections. Two letters, containing objections but no requests for a hearing, were received in response to the final regulation. The objections and the agency's responses are as follows:

1. One objection asserted that the new labeling requirements would require costly and frequent changes of the inner wrappers to make them conform with the outer package.

This objection is outside the scope of this rule because the removal of § 166.40(b)(1) through (10) will not require changes in any of the information currently required to be placed on the inner wrappers of margarine or oleomargarine. Further, because these inner wrappers are exempt from the declaration of ingredients as set forth in § 166.40(i), this amendment does not affect that exemption.

2. Two objections asserted that FDA was in error not to continue to permit the listing of fat/oil ingredients separately as a group at the beginning of the ingredient statement without a grouping phrase (e.g., vegetable oil blend) as required by the labeling regulations set forth in § 101.4(b)(14) (21 CFR 101.4(b)(14)).

This objection, too, is outside the scope of the issues presented by the proposal and is based on a misunderstanding of the effect of the amendment. The agency advises that, since 1976 (see 41 FR 1156; January 6, 1976 and subsequent issues 41 FR 5632; February 9, 1976 and 41 FR 14178; April 2, 1976) when § 101.4(b)(14) was promulgated, the standard of identity for margarine (21 CFR 166.110), by cross reference to 21 CFR Part 101, requires a grouping phrase (e.g., vegetable oil blend) before a parenthetical listing of the fat and/or oil ingredients to be placed in the ingredient statement of margarine. As stated in the earlier stages of this proceeding, the sole purpose of the amendment of § 166.40(b) is to make it consistent with the margarine standard of identity's labeling requirements.

The agency will, however, give due consideration to any petition, supported by adequate data, which demonstrates that an identifying phrase before the list of fat and/or oil ingredients is not in the best interests of consumers.

3. One objection requested an extension of the effective date to July 1, 1985, to allow margarine manufacturers to exhaust their existing label inventories.

FDA is granting the requested extension and confirming July 1, 1985, as the effective date for compliance with this regulation. Voluntary compliance was permitted to begin August 11, 1981.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 21 CFR 5.1; see 46 FR 26052; May 11, 1981)) notice is given that the effective date for compliance with § 166.40(b) as amended in the **Federal Register** of June 12, 1981 (46 FR 31004) is confirmed and extended to July 1, 1985.

Dated: January 15, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-1536 Filed 1-21-82; 8:45 am]
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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

Removal of the Conditions of Approval of the Arkansas Permanent Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 904 by removing the conditions of approval of the Arkansas permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Arkansas has submitted provisions to the Office of Surface Mining (OSM) which satisfy all the conditions of the Secretary's approval of November 21, 1980 (45 FR 77003-77017).

EFFECTIVE DATE: The removal of the condition of the approval is effective January 22, 1982.

FOR FURTHER INFORMATION CONTACT: William Schmidt, Assistant Director, Program Operations and Inspection, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue NW, Washington, D.C. 20240, telephone (202) 343-4225.

SUPPLEMENTARY INFORMATION:

Background on the Arkansas Program Submission

On February 19, 1980, OSM received a proposed regulatory program from the State of Arkansas. On November 14, 1980, following a review of that proposed program as outlined in 30 CFR 732, the Secretary approved the program subject to the correction of four minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the November 21, 1980, **Federal Register** (45 FR 77003-77017).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the conditions of approval of the Arkansas program can be found in the November 21, 1980, **Federal Register** (45 FR 77003–77017).

Background on the Secretary's Conditional Approval

The Secretary of the Interior determined that the Arkansas program contained four minor deficiencies.

1. The penalties for a person convicted of interfering with Arkansas Department of Pollution Control and Ecology (DPCE) employees in the performance of their duties, as provided in Arkansas Stat. Ann. 41-2801, 41-901 and 41-1101, were less stringent than the penalties of section 704 of SMCRA.

2. Arkansas regulation § 786.19(h) referenced State law rather than Federal law regarding proof of payment of all reclamation fees before permit approval, contrary to 30 CFR 786.19(h).

3. Arkansas did not place a limit on the time within which adjudicatory hearings on proposed civil penalties will be held.

4. Arkansas regulation § 940.1(a) did not incorporate the criteria for granting temporary relief during administrative review required by section 525(c) of SMCRA.

In accepting the Secretary's conditional approval, Arkansas agreed to correct deficiency number 1 by April 15, 1981, and deficiencies 2, 3, and 4 by January 1, 1981.

Submission of Revisions and Public Comment

On September 2, 1980, OSM received from the Arkansas DPCE a revision to the State regulations intended to satisfy condition number 4 (See Arkansas Administrative Record AR-192).

On January 19, 1981, the Arkansas DPCE submitted to OSM additional amendments to the State regulations to meet conditions 2 and 3 (Administrative Record AR-223).

On March 12, 1981, OSM received from the Arkansas DPCE an amendment to the State Act to satisfy condition 1 (Arkansas Administrative Record AR-224).

OSM published a notice in the **Federal Register** on August 25, 1981, announcing receipt of these provisions and inviting public comment on whether the proposed program amendments corrected the deficiencies (46 FR 42873). The public comment period ended September 25, 1981. A public hearing scheduled for September 21, 1981, was not held because no one expressed a desire to present testimony. One comment was received. The Environmental Policy Institute indicated that it had found no substantive problems with the proposed modifications to Arkansas' program and, therefore, it recommended that the Secretary remove the conditions of approval.

Secretary's Findings

The Secretary finds the amendments submitted by Arkansas on September 2, 1980, January 19, 1981, and March 12, 1981, correct the deficiencies in the Arkansas program as follows:

(1) Section 19 of Act 134, as amended by Senate Bill 191, making it a crime to resist, prevent, impede, or interfere with the Director of the Arkansas DPCE or his agents and specifying a penalty of not more than $5,000 or imprisonment for not more than one year or both, upon conviction, is consistent with section 704 of SMCRA, and corrects deficiency 1.

(2) Arkansas regulation 786.19(h), as amended, requires proof of payment of all reclamation fees, as required by section 402 of Pub. L. 95–87, and corrects deficiency.

(3) Arkansas regulation 845.19(a) places a 60-day limit on the time within which adjudicatory hearings on proposed civil penalties will be held and corrects deficiency 3.

(4) Arkansas regulation 940.1(a) providing criteria for temporary relief during administrative proceedings is consistent with section 525(c) of SMCRA and corrects deficiency 4.

Approval Without Condition

Accordingly, the Arkansas permanent program is hereby fully approved. 30 CFR 904.10 is amended to indicate approval of the September 2, 1980, January 19, 1981, and March 12, 1981, program amendments. 30 CFR 904.11 which established the conditions of the initial approval is hereby repealed.

The removal of the conditions of the approval of the Arkansas permanent program is effective upon publication of this notice.

Additional Findings

Pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this approval. This document is not a major rule under E.O. 12291; therefore no Regulatory Impact Analysis is being prepared on this approval.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

On August 26, 1980, the Administrator of the Environmental Protection Agency transmitted his written concurrence on the Arkansas permanent program. The amended regulatory provisions approved in this document are not aspects of the Arkansas permanent program which relate to air or water quality standards promulgated under the authority of the Federal Clean Water Act, as amended (33 U.S.C. 1151–1175), and the Clean Air Act, as amended (42 U.S.C. 1847 *et seq.*).

Dated: January 6, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

Accordingly, the Arkansas permanent program is hereby fully approved. 30 CFR 904.10 is amended to indicate approval of the September 2, 1980, January 19, 1981, and March 12, 1981, program amendments. 30 CFR 904.11 which established the conditions of the initial approval is hereby repealed.

PART 904—ARKANSAS

Part 904 of Title 30 is amended as follows:

1. 30 CFR 904.10 is amended by revising (a) to read as follows:

§ 904.10 State regulatory program approval.

(a) The Arkansas permanent program submitted February 18, 1980, as amended May 29, 1980, July 2, 1980 (with clarifications submitted July 29, August 8, August 14 and August 29, 1980), and as further amended September 2, 1980, January 19, 1981, and March 12, 1981, is approved effective upon publication of this notice. Copies of the approved program, as amended, are available at:

(1) Arkansas Department of Pollution Control and Ecology, Mining Reclamation Division, 8001 National Drive, Little Rock, Arkansas 72219, telephone: (501) 371–2130.

(2) Office of Surface Mining Reclamation and Enforcement, Scarritt Building, 818 Grand Avenue, 5th Floor, Kansas, City, Missouri 64106, telephone (816) 374–3920.

(3) Office of Surface Mining Reclamation and Enforcement, Administrative Record Office, 1100 L Street NW., Washington, D.C., telephone (202) 343–4728.

* * * * *

§ 904.11 [Removed]

30 CFR 904.11 is hereby removed.

[FR Doc. 82-1538 Filed 1-21-82; 8:45 am]

BILLING CODE 4310-05-M

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36 CFR Part 60

National Register of Historic Places; Extension of Comment

AGENCY: National Park Service, Interior.

ACTION: Extending comment period for interim rule.