Issued at Washington, D.C., this 25th day of October 1983.

Bert W. Hawkins,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 83-29580 Filed 10-31-83; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Inspection Service

9 CFR Part 327

[Docket No. 83-014 N]

Imported Products; Withdrawal of Czechoslovakia From the List of Countries Eligible for Importation of Meat Food Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Rule-related notice

SUMMARY: The publication of this document will bring the Food Safety and Inspection Service into compliance with the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) with regard to the above-captioned emergency final rule issued by the Agency on April 29, 1983 (48 FR 19358-60).

EFFECTIVE DATE: November 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Ragan, Director, Regulations Office, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-3317.

SUPPLEMENTARY INFORMATION:

Background

The Food Safety and Inspection Service (FSIS) published an emergency final rule on April 29, 1983, (48 FR 19358-60) that removed Czechoslovakia from the list of countries eligible for importation of meat products into the United States (9 CFR 327.2). The emergency action was taken when violative levels of PCB's were found in Czechoslovakian product and the Agency was unable to assure correction of the problem. The available evidence indicated that the meat inspection system of Czechoslovakia with respect to the detection and elimination of PCB residues in its meat product exported to the United States, failed to meet the applicable requirements of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the regulations promulgated thereunder (9 CFR 327). The evidence also indicated that the exported product posed a hazard to U.S. consumers sufficient to require emergency publication of the rule, without notice and comment and delayed effective date required for normal informal rulemaking proceedings under the Administrative Procedure Act (5 U.S.C. 553 (b) and (d), respectively).

The Regulatory Flexibility Act, in pertainent part (5 U.S.C. 608), requires that when an emergency rule is promulgated the issuing Agency shall, within 180 days, publish its findings with respect to that rule's regulatory impact on small entities.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that the emergency final rule "Imported Products; Withdrawal of Czechoslovakia from the List of Countries Eligible for Importation of Meat Food Product" (48 FR 19358-60) will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). At the time of promulgation only one U.S. company imported meat product from Czechoslovakia, and even though the effect is significant to that entity the Administrator, in accordance with the standards of the RFA, does not consider that effect as having a "significant economic impact on a *substantial number* of small entities." (Emphasis added).

(5 U.S.C. 605(b))

Done at Washington, D.C. on: October 26, 1983.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 83-29632 Filed 10-31-83; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF ENERGY

Energy Information Administration

10 CFR Part 761

Criteria to Assess Viability of Domestic Uranium Mining and Milling Industry

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Correction to Final Rule.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE), in response to requirements set forth in Section 170B of the Atomic Energy Act of 1954 (42 U.S.C. 2210b), established criteria which will be used to assess the viability of the domestic uranium mining and milling industry. These criteria were issued by Donald Paul Hodel, Secretary of Energy, on October 4, 1983. The final rule promulgating these criteria appeared in the October 6, 1983, issue of the **Federal Register** (see 48 FR 45746, October 6, 1983). The effective date was inadvertently omitted in the publication of the final rule.

EFFECTIVE DATE: November 7, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. R. Gene Clark, Director, Nuclear and Alternate Fuels Division, Energy Information Administration, EI-53—Room BG-057, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6363.

FR Doc. 83-27450, appearing in the **Federal Register** of October 6, 1983 on page 45746, is corrected by inserting the following preamble Caption:

EFFECTIVE DATE: November 7, 1983.

Issued in Washington, D.C., October 25, 1983.

J. Erich Evered,

Administrator, Energy Information Administration.

[FR Doc. 83-29516 Filed 10-31-83; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 26

FEDERAL RESERVE SYSTEM

12 CFR Part 212

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 348

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563f

[No. 83-534]

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 711

Management Official Interlocks

AGENCIES: Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, and National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and

the National Credit Union Administration (collectively referred to as the "agencies") are amending their regulations implementing the Depository Institution Management Interlocks Act, which generally prohibit certain management official interlocks between depository institutions, depository holding companies, and their affiliates. These amendments will (1) simplify the procedure for obtaining exceptions to the Act's prohibitions and extensions of time to permit compliance with the Act, (2) ease the burden of the Act on depository institution holding companies by redefining the terms "office" and "total assets," (3) broaden the exclusion for management officials whose functions relate exclusively to retail merchandising and manufacturing, (4) broaden the circumstances under which the exception for disruptive management loss is available, (5) clarify the circumstances that require termination of nongrandfathered management official interlocks, and (6) provide that interlocks between depository organizations and nondepository organizations that become diversified savings and loan holding companies, or their subsidiaries, need not be terminated until November 10, 1988, despite the occurrence of changes in circumstances. These amendments will streamline procedures for administration of the Interlocks Act and provide the management of depository institutions and depository organizations with greater flexibility by easing certain regulatory burdens.

EFFECTIVE DATE: November 30, 1983.

FOR FURTHER INFORMATION CONTACT: Bronwen Mason Chaiffetz ((202) 452–3564) or Melanie Fein ((202) 452–3594), Board of Governors of the Federal Reserve System; James F. E. Gillespie, Jr. ((202) 447–1893) or Rosemarie Oda ((202) 477–1880), Office of the Comptroller of the Currency; Pamela E. F. LeCren or Barbara I. Gersten ((202) 389–4171), Federal Deposit Insurance Corporation; David J. Bristol ((202) 377–6461) or George Scruggs ((202) 377–6963), Federal Home Loan Bank Board; or Steven R. Bisker ((202) 357–1030), National Credit Union Administration.

SUPPLEMENTARY INFORMATION: On October 26, 1982, the agencies published proposed amendments to the regulations (47 FR 47406) implementing the Depository Institution Management Interlocks Act of 1978 ("Interlocks Act"), 12 USC 3201 *et seq.* The proposed amendments would implement provisions of Pub. L. No. 97–110 which was signed into law on December 26, 1981, streamline procedures under existing regulations, and relieve certain regulatory burdens. The proposed changes were designed to ease the current regulatory burden while furthering the Interlocks Act's goal of fostering competition among depository organizations.

Summary of Comments

Eighteen comments were received in response to the publication of the proposed amendments. The overwhelming majority of the commenters favored the adoption of the proposed changes. However, some of those commenters favored clarifying changes. These comments are noted, where relevant, in the discussion of the specific provisions below.

1. *Definition of "Management Official"— Exclusion of Certain Persons.* Under the current regulations, a person whose management functions relate exclusively to the business of retail merchandising or manufacturing is not a management official for purposes of the prohibition based on major assets. Such a person is, however, considered a management official for purposes of the community and Standard Metropolitan Statistical Area ("SMSA") prohibitions. It had come to the agencies' attention that providing an exclusion only from the major assets prohibition creates an inconsistent result. A holding company employee with management functions relating solely to manufacturing or retailing activities may serve as a management official of a depository organization located anywhere in the country except in the SMSA or community where the holding company is located. Accordingly, the agencies proposed to amend the definition so that a person whose management functions relate exclusively to retail merchandising or manufacturing is not considered a management official for purposes of any of the general prohibitions of the regulation. Many commenters specifically favored this proposal. In the absence of adverse comments, the agencies are amending the definition of "management official," as proposed, to eliminate the inconsistency in the present definition.

2. *Definition of "Office."* The proposal suggested excluding from the definition of "office" an office of a depository holding company. This definitional change is necessary to reflect a substantive change in the prohibitions of the regulations discussed at length below under the heading "General Prohibitions." This change is being adopted as proposed.

3. *Definition for "Total Assets"— Total Assets of Certain Holding Companies.* The agencies proposed to amend the definition of "total assets" to provide that the total assets of diversified savings and loan holding companies and bank holding companies exempt from the Bank Holding Company Act by virtue of section 4(d) of that Act ("diversified holding companies") equal only the assets of their depository institution affiliates. Currently, the total assests of a diversified holding company are defined to include the assets of the company's depository institution affiliates for the purposes of the SMSA prohibition and the assets of *all* affiliates for the purposes of the major asset prohibition. Thus, a management official of a diversified holding company with assets exceeding $1 billion is now prohibited from serving as a management official of a depository organization with assets exceeding $500 million regardless of the size or location of the depository institution affiliate that causes the diversified holding company to be included as a depository organization under the regulations.

By adopting the amendment to the definition of total assets substantially as proposed, the agencies would key the regulatory prohibitions to the size of the diversified holding company's depository institution affiliate rather than to the size of the holding company system. The agencies believe that focusing on the depository institution affiliate is appropriate because the primary business activities of diversified holding companies do not normally involve competition among depository organizations of the type that the Interlocks Act is intended to foster. In addition, the depository institution affiliate generally represents a very small part of the assets and income of the holding company. Thus, it has been the experience of the agencies that, in the case of diversified holding companies, the asset size of the holding company itself is not an accurate measure of the market in which its depository institution affiliate actually competes.

The effect of the amended definition is illustrated by the following example: X is a management official of Holding Company A and wishes to serve as a management official of Bank B. Holding Company A is a diversified bank holding company with consolidated assets, including the assets of all of its affiliates, in excess of $1 billion. Its only depository institution is located in SMSA 1. Bank B's total assets exceed $1 billion and all of its offices are located in SMSA 2. Under the proposed amendment the total assets of Holding Company A would equal the total assets of its depository institution affiliate. Thus, X's concurrent service would be

prohibited only if the assets of A's depository institution affiliate exceeded $500 million

One commenter requested that the definition be clarified to indicate that nondiversified subsidiary holding companies of diversified holding companies need not include assets of their parent companies when calculating 'total assets." This clarification would avoid the unintended result of attributing the assets of an "upstream" affiliate or "sister" company (i.e., another company held directly by the parent) to a subsidiary nondiversified holding company. The agencies are inserting the word "subsidiary" before the word "affiliates" in the first clause of the second sentence of the definition to effect this change.

The agencies are also making technical changes in the definition of "total assets" to reflect the changes being made in the General Prohibitions discussed below. Under the current regulations, the total assets of a depository holding company include or exclude the assets of its nondepository institution affiliates depending on whether the SMSA or major assets prohibitions are to be applied. The change in definition being adopted would eliminate that distinction since the total assets of a depository holding company will be irrelevant for the purposes of the SMSA prohibitions.

4. *General Prohibitions.* The agencies are adopting, as proposed, a revision to the General Prohibitions section of the regulations to clarify the language of the section and, in conjunction with the redefinition of "office," effect a substantive change in its application. The general prohibitions of the current regulations provide that a management interlock may be prohibited due to the location of a depository holding company regardless of whether its depository institution affiliates are located in the same community or SMSA as the holding company parent. For example, the regulations currently prohibit two depository holding companies located in the same community from sharing management officials even though neither has depository institution affiliates located in that community or in the same community anywhere in the country. The agencies believe that this prohibition is unduly harsh, and the commenters supported this view.

As adopted, the amendment will apply the community and SMSA prohibitions of the regulation solely with reference to the location and asset size of depository institution and would eliminate from consideration the location or asset size of depository holding companies. This change will permit depository holding companies to interlock within the same community or SMSA unless the major assets prohibition would apply or unless the location and sizes of the depository institution affiliates would trigger application of the community or SMSA prohibitions.

5. *Exemption Relating to Diversified Savings and Loan Holding Companies* On December 26, 1981, section 206 of the Interlocks Act was amended by adding new subsection (b), which provides that a person serving as a management official of a nondepository corporation and a depository organization is not prohibited from continuing to serve with both entities as a result of the nondepository corporation becoming a diversified savings and loan holding company, as defined in section 408(a) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)). Without this express exemption, which expires on November 10, 1988, the transformation of a corporation into a depository organization would subject the official's dual service to the prohibitions of the Interlocks Act. Even if such dual service commenced prior to November 10, 1978, it would not be grandfathered under the Interlocks Act since section 206 grants grandfathered rights only to interlocks between depository organizations.

The statutory amendment left open the question of whether subsequent changes in circumstances could result in the termination of an individual's service prior to November 10, 1988. The agencies proposed amending their respective regulations to address that issue so as to provide that a person who was serving as a management official of a depository organization and a nondepository organization (or any subsidiary thereof) could maintain any interlocking service that existed when the nondepository organization became a diversified savings and loan holding company despite the occurrence of any subsequent changes in circumstances. This change would reflect the view of the agencies, which is supported by the legislative history, that section 206(b) of the Interlocks Act grants rights similar to those provided to grandfathered management officials by section 206(a). The commenters specifically urged the adoption of this amendment, and it is being adopted as proposed to satisfy the intent of Congress.

The amendment permits a management official who is serving, for example, at Bank A and nondepository corporation B to continue to serve both A and B after B becomes a diversified savings and loan holding company whether the acquisition of the savings and loan is direct or accomplished through a subsidiary (operating or shell) of B. If the acquisition is accomplished through B's subsidiary corporation, and that subsidiary had a pre-existing management official interlock with Bank A, the interlock between the subsidiary corporation and Bank A may also continue

The agencies in their earlier Federal Register notice indicated that pending consideration of the proposal no supervisory action would be taken with regard to section 206(b) interlocks arguably affected by changes in circumstances. In view of the fact that the agencies have determined that section 206(b) interlocks should receive similar treatment to grandfathered interlocks, i.e., not be subject to early termination due to changes in circumstances, the agencies are adding language that would expressly permit the continuance of interlocks that were the subject of changes in circumstances in the interim period prior to the effective date of this amendment.

6. *Agency Approval of Exceptions.* The proposal included an amendment revising the manner in which the agencies grant exceptions. Under previous regulations, an exception must be approved by both the federal supervisory agency of the institution in need of the exception and the supervisory agency of the other institution(s) involved in the interlocks. Frequently, the primary federal supervisory agency is not the same for each institution, and an applicant for the exception must apply to two or more agencies. In the interests of simplifying the procedure under the regulations and affording prompt relief to institutions in need of management expertise, the agencies proposed that approval by only the federal supervisory agency of the needy institution should be required for the exception to be granted, and the requirement for approval by the other supervisory agencies involved would be eliminated. In addition, the proposed amendment provided that if the depository institution seeking to qualify under one of the exceptions had no federal supervisory agency, the federal supervisory agency of the other institution involved in the proposed interlock would grant or deny the requested exception. This proposed amendment was supported by the commenters and is being adopted as proposed.

7. *Extension for Disruptive Management Loss.* Currently, the regulations provide that the agencies may extend for a period of up to 30 months the compliance period for

depository organizations losing 50 percent or more of their directors or total management officials as a result of changes in circumstances requiring the termination of interlocks. Based on the agencies' experience with these provisions, the agencies solicited comments on the following proposed changes:

(a) The current provision becomes operative when a depository institution faces the loss of 50 percent of either its dierctors or total management officials. Recognizing that the loss of a smaller percentage of management officials may also cause significant disruption to a depository organization, the agencies proposed to reduce to 30 percent the percentage necessary to qualify for the extension.

(b) Under current regulations, the 30-month extension becomes available only when the depository organization facing disruptive management loss experiences a change in circumstances. The proposal noted that it had come to the agencies' attention that a depository organization may experience a disruptive loss of management officals due to changes in circumstances involving other depository organizations but not the affected organization itself, or due to a series of changes in circumstances involving the organization and other depository organizations. Recognizing that these situations also may cause disruptive management loss, the agencies proposed to make the 30-month extension available when any change in circumstances circumstances or combination of changes in circumstances results in the potential loss of 30 percent or more of an organization's directors or total management officials. Under the amendments, which are being adopted as proposed, changes in circumstances that occur within a 15-month period will be viewed in the aggregate in order to determine whether the requisite percentage exists. The 30-month period would be measured from the date of the first change in circumstances that occurred within the 15-month period.

The following example illustrates how the new provision would operate: Bank A, located in SMSA 1, has ten directors. One of Bank A's directors serves as a director of Bank B in SMSA 2, one serves as director of Bank C in SMSA 3, and one serves as director of Bank D in SMSA 4. In Month 1, Bank B merges with a bank in SMSA 1. In Month 7, Bank A merges with a bank located in SMSA 4. In Month 13, Bank C merges with a bank in SMSA 1. As a result of these mergers, Bank A's interlocks with each of the other three banks become prohibited. Bank A's management officials may apply for an extension to terminate the prohibited interlocks, which would end 30 months from the first change in circumstance.

(c) Under the current reguations, an organization qualifying for the 30-month extension must experience a change in circumstances that "requires the termination of service" of its directors or management officals. When some of the directors whose interlocks become prohibited in fact intend to retain their positions with the depository organization experiencing the change in circumstances, the extension would not appear to be necessary to avoid unduly disrupting the affected organization. For this reason, the agencies proposed to limit the availability of the extension by requiring applicants to demonstrate the likelihood of disruptive management loss. The agencies do not believe this requirement would impose an undue regulatory burden; its purpose would be simply to ensure that the 30-month extension is granted only to organizations truly in need of relief. For purposes of demonstrating the likelihood of disruptive management loss, the agencies proposed to establish a rebuttable presumption that a director who is a full-time employee of the affected organization normally would not terminate interlocking service by resigning from that organization. The agencies believe that such a presumption is reasonable and would ease the regulatory burden in evaluating requests under this provision.

One commenter suggested a change in this proposed amendment. It was suggested that instead of using a percentage standard, the agencies process extensions for disruptive management loss on a case-by-case basis. The agencies believe that a 30-percent standard is a useful guideline which facilitates the delegation to staff of the authority to grant extensions thereby streamlining procedures. In addition, it is noted that the agencies can act pursuant to the exception for conditions endangering safety or soundness to alleviate problems caused when management loss of less than 30 percent threatens the viability of a depository institution or organization. Accordingly, as noted above, the agencies are adopting this provision as proposed.

8. *Changes in Circumstances—Nongrandfathered Interlocks.* The Interlocks Act authorizes the agencies to grant a period of time, not in excess of 15 months, for compliance with the Interlocks Act following changes in circumstances that cause interlocks to become prohibited. The current regulations provide that a management official with a nongrandfathered interlock that becomes prohibited as a result of a voluntary change in circumstances may continue to serve until the next regularly scheduled annual meeting of the institutions involved following a change in circumstances, unless the agencies impose a shorter time period. The management official may request an extension of the grace period not in excess of 15 months from the date of the change in circumstances. However, if the management official's nongrandfathered service becomes prohibited due to an involuntary change in circumstances, such as natural growth or a change in community or SMSA boundaries, the maximum 15-month grace period applies.

To simplify the grace period provision, the agencies are adopting, as proposed, an amendment which provides a maximum 15-month grace period for all changes in circumstances, whether voluntary or involuntary. This change will eliminate the necessity for institutions to apply for extensions of time. Since this change eliminates the need to distinguish between voluntary and involuntary interlocks, that distinction is being deleted from the change in circumstances provisions.

Since adopting the regulations, it has been the agencies' experience that other changes in circumstances, such as the termination of an affiliate relationship between two or more depository organizations, may cause nongrandfathered interlocks to become prohibited. The list of changes in circumstances specified in the regulations was intended to reflect the most commonly occurring changes and, as indicated when the regulations were originally adopted, was not intended to be exhaustive. To clarify their intent in this regard, the agencies proposed to amend the regulations to indicate that nongrandfathered interlocks that become prohibited due to changes in circumstances other than those enumerated in the regulation also will be eligible for the grace period. The amendment also will specifically include disaffiliation as a change in circumstances.

9. *Effect on Clayton Act.* The Board of Governors of the Federal Reserve System is adopting its proposal to make a technical change in its regulation by eliminating § 212.7 pertaining to the effect of the Interlocks Act on the Clayton Act. This section states that the Board of Governors regards the

provisions of the first three paragraphs of section 8 of the Clayton Act to have been supplanted by the Interlocks Act. The other agencies' regulations do not include this provision since only the Board of Governors had jurisdiction over management interlocks under the Clayton Act prior to enactment of the Interlocks Act. The substance of the section will be incorporated into the authority section of the regulation. This change will make the agencies' regulations more uniform in appearance.

In addition to the substantive changes described above, minor editorial changes were made in these final rules to improve clarity and readability.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 5 U.S.C. 601 *et seq.*), the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration certify that the amendments will not have a significant economic impact on a substantial number of small entities. The amendments will ease the application of the existing regulations and do not have any particular effect on small entities. The effect of the amendments is expected to be beneficial rather than adverse, and small entities are generally expected to share the benefits of the amendments equally with larger institutions.

Regulatory Impact Analysis. Pursuant to section 3(g)(1) of Excutive Order 12291 of February 17, 1981, it has been determined that the amendments do not constitute a major rule within the meaning of section 1(b) of the Executive Order. The amendments ease restrictions imposed by regulations implementing the Depository Institution Management Interlocks Act, 12 U.S.C. 3201 *et seq.*, in instances where the easing of such restrictions has no anticompetitive effect. The amendments have no adverse effect on the operations of the depository institutions subject to them. As such, the amendments will not have an annual effect on the economy of $100 million or more, will not effect costs or prices for consumers, individual industries, government agencies, or geographic regions, and will not have adverse effects on competition, employment, investment, productivity, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

List of Subjects

12 CFR Part 26

National banks, Management official interlocks.

12 CFR Part 212

Antitrust, Holding companies.

12 CFR Part 348

Antitrust, Banks, Banking, Holding companies.

12 CFR Part 563f

Antitrust, Savings and loan associations.

12 CFR Part 711

Antitrust, Credit unions.

Accordingly, pursuant to their respective authority under section 209 of the Depository Institution Management Interlocks Act (12 U.S.C. 3207), the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration hereby amend Title 12 of the Code of Federal Regulations, Parts 26, 212, 348, 563f, and 711, respectively, as follows:

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563f

Management Official Interlocks

PART 563f—[AMENDED]

1. Revise paragraphs (f), (g) and (j) of § 563f.2, to read as follows:

§ 563f.2 Definitions.

* * * * *

(f)(1) "Management official" means (i) an employee or officer with management functions (including a branch manager); (ii) a director (including an advisory director or honorary director); (iii) a trustee of a business organization under the control of trustees (*e.g.*, a mutual savings bank); or (iv) any person who has a representative or nominee serving in any such capacity. (2) "Management official" does not include (i) a person whose management functions relate exclusively to the business of retail merchandising or manufacturing; (ii) a person whose management functions relate principally to the business outside the United States of a foreign commercial bank; or (iii) persons described in the provisos of section 202(4) of the Interlocks Act (12 U.S.C. 3201(4)).

(g) "Office" means a principal or branch office of a depository institution located in the United States. "Office" does not include a representative office of a foreign commercial bank, an electronic terminal, or a loan production office, or any office of a depository holding company.

* * * * *

(j) "Total assets" means assets measured on a consolidated basis as of the close of the organization's last fiscal year. The total assets of a depository holding company include the total assets of all its subsidiary affiliates, except that "total assets" of a diversified savings and loan holding company as defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)), or of a bank holding company that is exempt from the prohibitions of section 4 of the Bank Holding Company Act of 1956 pursuant to an order issued under section 4(d) of that Act (12 U.S.C. 1843(d)), means only the total assets of its depository institution affiliate. "Total assets" of a United States branch or agency of a foreign commercial bank means total assets of such branch or agency itself exclusive of the assets of the other offices of the foreign commercial bank.

2. Revise pargraphs (a) and (b) of § 563f.3 to read as follows:

§ 563f.3 General prohibitions.

(a) *Community.* A management official of a depository organization may not serve at the same time as a managment official of another depository organization not affiliated with it if:

(1) Both are depository institutions and each has an office in the same community;

(2) Offices of depository institution affiliates of both are located in the same community; or

(3) One is a depository institution that has an office in the same community as a depository institution affiliate of the other.

(b) *Standard Metropolitan Statistical Area ("SMSA").* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if:

(1) Both are depository institutions, each has an office in the same SMSA, and either institution has total assets of $20 million or more;

(2) Offices of depository institution affiliates of both are located in the same SMSA and either of the depository institution affiliates has total assets of $20 million or more; or

(3) One is a depository institution that has an office in the same SMSA as a depository institution affiliate of the

other and either the depository institution or the depository institution affiliate has total assets of $20 million or more.

* * * * *

3. Amend § 563f.4 by revising the introductory language to paragraph (b), subparagraphs (b)(1), (2), (3) and (5), and paragraph (c), to read as follows:

§ 563f.4 Permitted interlocking relationships.

* * * * *

(b) *Interlocking relationships permitted by agency order.* A management official or a prospective management official of an insured institution, a savings and loan holding company, or an affiliate of either may enter into an otherwise prohibited interlocking relationship with a depository organization that falls within one of the classifications enumerated in this paragraph (b) if the Federal supervisory agency (as specified in section 207 of the Interlocks Act) of the organization that falls within one of the classifications determines that the relationship meets the requirements set forth in this paragraph. If the depository organization that falls within one of the classifications is not subject to the interlocks regulations of any of the Federal supervisory agencies, then the Board shall determine whether the relationship meets the requirements of this paragraph.

(1) *Organization in low-income area; minority or women's organization.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations is (i) located, or to be located, in a low-income or other economically depressed area, or (ii) controlled or managed by persons who are members of minority groups or by women, subject to the following conditions: (A) The relationship is necessary to provide management or operating expertise to the organization specified in paragraph (b)(1) (i) or (ii) of this section; (B) no interlocking relationship permitted by this paragraph shall continue for more than five years; and (C) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(2) *Newly chartered organization.* A person may serve at the same time as a management official of two or more depository organizations if one of the depository organizations (or an affiliate thereof) is a newly chartered organization, subject to the following conditions: (i) The relationship is necessary to provide management or operating expertise to the newly created organization; (ii) no interlocking relationship permitted by this subparagraph shall continue for more than two years after the newly chartered organization commences business; and (iii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(3) *Conditions endangering safety or soundness.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations faces conditions endangering the organization's safety or soundness, provided: (i) The relationship is necessary to provide management or operating expertise to the organization facing conditions endangering safety or soundness; and (ii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

* * * * *

(5) *Loss of management officials due to changes in circumstances.* If a depository organization is likely to lose 30 percent or more of its directors or of its total management officials due to a change in circumstances described in § 563f.6 of this Part, the affected management officials may continue to serve in excess of the time periods specified in § 563f.6, provided that: (i) The depository organization's prospective loss of management officials or directors will be disruptive to the internal management of the depository organization; (ii) the depository organization demonstrates that, absent a grant of relief in accordance with this paragraph, 30 percent or more of either its directors or management officials are likely to sever their interlocking relationships with the depository organization; (iii) if the prospective losses of management officials resulted from more than one change in circumstances, such changes in circumstances must have occurred within a 15-month period; and (iv) the depository organization develops a plan for the orderly termination of service by each such management official over a period not longer than 30 months after the change in circumstances which caused the person's service to become prohibited (but if the loss of management officials is the result of more than one change in circumstances, the 30-month period is measured from the first change in circumstances). Other conditions in addition to or in lieu of the foregoing may be imposed by the Federal supervisory agency. In evaluating requests made pursuant to this subparagraph, the Federal supervisory agency will presume that a director who also is a paid, full-time employee of the depository organization, absent unusual circumstances, will not resign from the position of director with that depository organization. This presumption may, however, be rebutted by a showing that such unusual circumstances exist.

(c) *Diversified savings and loan holding company.* Notwithstanding § 563f.3, a person who serves as a management official of a depository organization and of a nondepository organization (or any subsidiary thereof) is not prohibited from continuing the interlocking service when the nondepository organization becomes a diversified savings and loan holding company as that term is defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)) and may continue to serve until November 10, 1988, despite the occurrence of any changes in circumstances, whether or not those changes in circumstances occurred prior to November 30, 1983.

4. Revise § 563f.6 to read as follows:

§ 563f.6 Changes in circumstances.

(a) *Nongrandfathered interlocks.* If a person's service as a management official is not grandfathered under § 563f.5 of this part, the person's service must be terminated if a change in circumstances causes such service to become prohibited. Such a change may include, but is not limited to, an increase in asset size of an organization due to natural growth, a change in SMSA or community boundaries or the designation of a new SMSA, an acquisition, merger or consolidation, the establishment of an office, or a disaffiliation.

(b) *Grace period.* If a person's nongrandfathered service as a management official becomes prohibited under paragraph (a) of this section, the person may continue to serve as a management official of all organizations involved in the prohibited interlocking relationship until 15 months after the date on which the change in circumstances that caused the interlock to become prohibited occurred, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to established a shorter period.

(Secs. 206, 207, 209, 92 Stat. 3674, 3675 (12 U.S.C. 3205, 3206, 3207, *as amended by* International Banking Facility Deposit

Insurance Act, Pub. L. No. 97-110, 302 (December 26, 1981)); Reorg. Plan No. 3 of 1947; 3 CFR 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

BILLING CODE 6720-01-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 26

[Docket No. 83-47]

Management Official Interlocks

For the reasons set out in the preamble, 12 CFR Part 26 is amended as follows:

PART 26—[AMENDED]

1. The authority citation for Part 26 reads as follows:

Authority: Depository Institution Management Interlocks Act, 92 Stat. 3672 (12 U.S.C. 3201 *et seq.*)

2. Section 26.2(h), (i) and (l) are revised as follows:

§ 26.2 Definitions.

* * * * *

(h)(1) "Management official" means (i) an employee or officer with management functions (including a branch manager); (ii) a director (including an advisory director or honorary director); (iii) a trustee of a business organization under the control of trustees (*e.g.*, a mutual savings bank); or (iv) any person who has a representative or nominee serving in any such capacity. (2) "Management official" does not include (i) a person whose management functions relate exclusively to the business of retail merchandising or manufacturing; (ii) a person whose management functions relate principally to the business outside the United States of a foreign commercial bank; or (iii) persons described in the provisos of section 202(4) of the Interlocks Act (12 U.S.C. § 3201(4)).

(i) "Office" means a principal or branch office of a depository institution located in the United States. "Office" does not include a representative office of a foreign commercial bank, an electronic terminal, or a loan production office, or any office of a depository holding company.

* * * * *

(l) "Total assets" means assets measured on a consolidated basis as of the close of the organization's last fiscal year. The total assets of a depository holding company include the total assets of all of its subsidiary affiliates, except that "total assets" of a diversified savings and loan holding company as defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)), or of a bank holding company that is exempt from the prohibitions of section 4 of the Bank Holding Company Act of 1956 pursuant to an order issued under section 4(d) of that Act (12 U.S.C. 1843(d)), means only the total assets of its depository institution affiliate. "Total assets" of a United States branch or agency of a foreign commercial bank means total assets of such branch or agency itself exclusive of the assets of the other offices of the foreign commercial bank.

* * * * *

3. Section 26.3 (a) and (b) are revised as follows:

§ 26.3 General prohibitions.

(a) *Community.* A management official of a depository organization may not serve at the same time as a management official of another organization not affiliated with it if:

(1) Both are depository institutions and each has an office in the same community;

(2) Offices of depository institution affiliates of both are located in the same community; or

(3) One is a depository institution that has an office in the same community as a depository institution affiliate of the other.

(b) *Standard Metropolitan Statistical Area ("SMSA").* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if:

(1) Both are depository institutions, each has an office in the same SMSA, and either institution has total assets of $20 million or more;

(2) Offices of depository institution affiliates of both are located in the same SMSA and either of the depository institution affiliates has total assets of $20 million or more; or

(3) One is a depository institution that has an office in the SMSA as a depository institution affiliate of the other and either the depository institution or the depository institution affiliate has total assets of $20 million or more.

* * * * *

4. Section 26.4 is amended by revising paragraph (b) introductory text paragraphs (b) (1), (2), (3), and (5) and paragraph (c) to read as follows:

§ 26.4 Permitted interlocking relationships.

* * * * *

(b) *Interlocking relationships permitted by agency order.* A management official or a prospective management official of a national bank, bank located in the District of Columbia, or an affiliate of either may enter into an otherwise prohibited interlocking relationship with a depository organization that falls within one of the classifications enumerated in this paragraph (b) if the Federal supervisory agency (as specified in section 207 of the Interlocks Act) of the organization that falls within one of the classifications determines that the relationship meets the requirements set forth in this paragraph. If the depository organization that falls within one of the classifications is not subject to the interlocks regulations of any of the Federal supervisory agencies, then the Comptroller shall determine whether the relationship meets the requirements of this paragraph.

(1) *Organization in low income area; minority or women's organization.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations is (i) located, or to be located, in a low income or other economically depressed area, or (ii) controlled or managed by persons who are members of minority groups or by women, subject to the following conditions: (A) the relationship is necessary to provide management or operating expertise to the organization specified in paragraph (b)(1)(i) or (ii) of this section (B) no interlocking relationship permitted by this paragraph shall continue for more than five years; and (C) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(2) *Newly-chartered organizaton.* A person may serve at the same time as a management official of two or more depository organizations if one of the depository organizations (or an affiliate thereof) is a newly-chartered organization, subject to the following conditions: (i) The relationship is necessary to provide management or operating expertise to the newly-chartered organization; (ii) no interlocking relationship permitted by this subparagraph shall continue for more than two years after the newly-chartered organization commences business; and (iii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(3) *Conditions endangering safety or soundness.* A person may serve at the same time as a management official of two or more depository organizations

(or affiliates thereof) if one of the depository organizations faces conditions endangering the organization's safety or soundness, provided: (i) The relationship is necessary to provide management or operating expertise to such organization facing conditions endangering safety or soundness; and (ii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

* * * * *

(5) *Loss of management officals due to changes in circumstances.* If a depository organization is likely to lose 30 percent or more of its directors or of its total management officials due to a change in circumstances described in § 26.6, the affected management officials may continue to serve in excess of the time periods specified in § 26.6, provided that: (i) The depository organization's prospective loss of management officials or directors will be disruptive to the internal management of the depository organization; (ii) the depository organization demonstrates that, absent a grant of relief in accordance with this paragraph, 30 percent or more of either its directors or management officials are likely to sever their interlocking relationships with the depository organization; (iii) if the prospective losses of management officials resulted from more than one change in circumstances, such changes in circumstances must have occurred within a 15 month period; and (iv) the depository organization develops a plan for the orderly termination of service by each such management official over a period not longer than 30 months after the change in circumstances which caused the person's service to become prohibited (but if the loss of management officials is the result of more than one change in circumstances, the 30-month period is measured from the first change in circumstances). Other conditions in addition to or in lieu of the foregoing may be imposed by the Federal supervisory agency. In evaluating requests made pursuant to this paragraph, the Federal supervisory agency will presume that a director who also is a paid, full-time employee of the depository organization, absent unusual circumstances, will not resign from the position of director with that depository organization. This presumption may, however, be rebutted by a showing that such unusual circumstances exist.

(c) *Diversified savings and loan holding company.* Notwithstanding § 26.3, a person who serves as a management official of a depository organization and of non-depository organization (or any subsidiary thereof) is not prohibited from continuing the interlocking service when the non-depository organization becomes a diversified savings and loan holding company as that term is defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)) and may continue to serve until November 10, 1988, despite the occurrence of any subsequent changes in circumstances, whether or not those changes in circumstances occurred prior to November 30, 1983.

5. Section 26.6 is revised as follows:

§ 26.6 Changes in circumstances.

(a) *Non-grandfathered interlocks.* If a person's service as a management official is not grandfathered under § 26.5 of this Part, the person's service must be terminated if a change in circumstances causes such service to become prohibited. Such a change may include, but is not limited to, an increase in asset size of an organization due to natural growth, a change in SMSA or community boundaries or the designation of a new SMSA, an acquisition, merger or consolidation, the establishment of an office, or a disaffiliation.

(b) *Grace period.* If a person's non-grandfathered service as a management official becomes prohibited under paragraph (a) of this section, the person may continue to serve as a management official of all organizations involved in the prohibited interlocking relationship until 15 months after the date on which the change in circumstances that caused the interlock to become prohibited occurred, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period.

Dated: September 28, 1983.

C. T. Conover,

Comptroller of the Currency.

BILLING CODE 4810-33-M

FEDERAL RESERVE SYSTEM

12 CFR Part 212

Management Official Interlocks

12 CFR Part 212 is amended as follows:

PART 212—[AMENDED]

1. The authority citation for Part 212 reads as follows:

Authority: 12 U.S.C. 3201 *et seq.*

2. Section 212.1(h), (i) and (l) are revised as follows:

§212.2 Definitions.

* * * * *

(h)(1) "Management official" means (i) an employee or officer with management functions (including a branch manager); (ii) a director (including an advisory director or honorary director); (iii) a trustee of a business organization under the control of trustees (*e.g.*, a mutual savings bank); or (iv) any person who has a representative or nominee serving in any such capacity. (2) "Management official" does not include (i) a person whose management functions relate exclusively to the business of retail merchandising or manufacturing; (ii) a person whose managment functions relate principally to the business outside the United States of a foreign commerical bank; or (iii) persons described in the provisos of section 202(4) of the Interlocks Act (12 U.S.C. 3201(4)).

(i) "Office" means a principal or branch office, located in the United States, of a depository institution. "Office" does not include a representative office of a foreign commercial bank, an electronic terminal, a loan production office, or any office of a depository holding company.

* * * * *

(l) "Total assets" means assets measured on a consolidated basis as of the close of the organization's last fiscal year. The "total assets" of a depository holding company include the total assets of all of its subsidiary affiliates, except that "total assets" of a diversified savings and loan holding company, as defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(F)), or of a bank holding company that is exempt from the prohibitions of section 4 of the Bank Holding Company Act of 1956 pursuant to an order issued under section 4(d) of that Act (12 U.S.C. 1843(d)), means only the total assets of its depository institution affiliate. "Total assets" of a United States branch or agency of a foreign commerical bank means the total assets of such branch or agency itself exclusive of the assets of the other offices of the foreign commerical bank.

* * * * *

3. Section 212.3(a) and paragraph (b) introductory text, and paragraphs (b) (1) and (3) are revised to read as follows:

§ 212.3 General Prohibitions.

(a) *Community.* A management official of a depository organization

may not serve at the same time as a management official of another depository organization not affiliated with it if:

(1) Both are depository institutions and each has an office in the same community;

(2) Offices of depository institution affiliates of both are located in the same community; or

(3) One is a depository institution that has an office in the same community as a depository institution affiliate of the other.

(b) *Standard Metropolitan Statistical Area ("SMSA").* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if:

(1) Both are depository institutions, each has an office in the same SMSA, and either institution has total assets of $20 million or more;

* * * * *

(3) One is a depository institution that has an office in the same SMSA as a depository affiliate of the other and either the depository institution or the depository institution affiliate has total assets of $20 million or more.

4. Section 212.4 is amended by revising paragraph (b) introductory text, paragraphs (b)(1), (2), (3), and (5), and paragraph (c) to read as follows:

§ 212.4 Permitted interlocking relationships.

* * * * *

(b) *Interlocking relationships permitted by agency order.* A management official or a prospective management official of a state member bank, bank holding company, or an affiliate of either, may enter into an otherwise prohibited interlocking relationship with a depository organization that falls within one of the classifications enumerated in this paragraph (b) if the Federal supervisory agency (as specified in section 207 of the Interlocks Act) of the organization that falls within one of the classifications determines that the relationship meets the requirements set forth in this paragraph. If the depository organization that falls within one of the classifications is not subject to the interlocks regulations of any of the Federal supervisory agencies, then the Board shall determine whether the relationship meets the requirements of this paragraph.

(1) *Organization in low income area; minority or women's organization.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations is (i) located, or to be located, in a low income or other economically depressed area, or (ii) controlled or managed by persons who are members of minority groups or by women, subject to the following conditions: (A) The relationship is necessary to provide management or operating expertise to the organization specified in paragraph (b)(1) (i) or (ii) of this section; (B) no interlocking relationship permitted by this paragraph shall continue for more than five years; and (C) other conditions in addition to, or in lieu of, the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(2) *Newly-chartered organization.* A person may serve at the same time as a management official of two or more depository organizations if one of the depository organizations (or an affiliate thereof) is a newly-chartered organization, subject to the following conditions: (i) The relationship is necessary to provide management or operating expertise to the newly-chartered organization; (ii) no interlocking relationship permitted by this paragraph shall continue for more than two years after the newly-chartered organization commences business; and (iii) other conditions in addition to, or in lieu of, the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(3) *Conditions endangering safety or soundness.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations faces conditions endangering the organization's safety or soundness, subject to the following conditions: (i) The relationship is necessary to provide management or operating expertise to such organization facing conditions endangering safety or soundness; and (ii) other conditions in addition to, or in lieu of, the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

* * * * *

(5) *Loss of management officials due to changes in circumstances.* If a depository organization is likely to lose 30 percent or more of its directors or of its total management officials due to a change in circumstances described in § 212.6 of this Part, the affected management officials may continue to serve in excess of the time periods specified in § 212.6, provided that: (i) The depository organization's prospective loss of management officials or directors will be disruptive to the internal management of the depository organization; (ii) the depository organization demonstrates that, absent a grant of relief in accordance with this paragraph, 30 percent or more of either its directors or management officials are likely to sever their interlocking relationships with the depository organization; (iii) if the prospective losses of management officials resulted from more than one change in circumstances, such changes in circumstances must have occurred within a fifteen-month period; and (iv) the depository organization develops a plan for the orderly termination of service by each such management official over a period not longer than 30 months after the change in circumstances which caused the person's service to become prohibited (but if the loss of management officials is the result of more than one change in circumstances, the 30-month period is measured from the first change in circumstances). Other conditions in addition to, or in lieu of, the foregoing may be imposed by the appropriate Federal supervisory agency. In evaluating requests made pursuant to this paragraph, the appropriate Federal supervisory agency will presume that a director who also is a paid, full-time employee of the depository organization, absent unusual circumstances, will not resign from the position of director with that depository organization. This presumption may, however, be rebutted by a showing that such unusual circumstances exist.

(c) *Diversified savings and loan holding company.* Notwithstanding § 212.3, a person who serves as a management official of a depository organization and of a nondepository organization (or any subsidiary thereof) is not prohibited from continuing the interlocking service when the nondepository organization becomes a diversified savings and loan holding company as that term is defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)), and may continue to serve until November 10, 1988, despite the occurrence of any subsequent changes in circumstances, whether or not those changes in circumstances occurred prior to November 30, 1983.

5. Section 212.6 is revised to read as follows:

§ 212.6 Changes in circumstances.

(a) *Nongrandfathered interlocks.* If a person's service as a management official is not grandfathered under § 212.5 of this part, the person's service must be terminated if a change in

circumstances causes such service to become prohibited. Such a change may include, but is not limited to, an increase in asset size of an organization due to natural growth, a change in SMSA or community boundaries or the designation of a new SMSA, an acquisition, merger or consolidation, the establishment of an office, or a disaffiliation.

(b) *Grace period.* If a person's nongrandfathered service as a management official becomes prohibited under paragraph (a) of this section, the person may continue to serve as a management official of all organizations involved in the prohibited interlocking relationship until 15 months after the date on which the change in circumstances that caused the interlock to become prohibited occurred, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period.

By order of the Board of Governors of the Federal Reserve System, effective October 21, 1983.

William W. Wiles,

Secretary of the Board.

BILLING CODE 6210-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 348

Management Official Interlocks

Title 12 CFR Part 348 is amended as follows:

PART 348—[AMENDED]

1. The authority citation for Part 348 reads as follows:

Authority: Sec. 209, Pub L. No. 95-630, 92 Stat. 3675 (12 U.S.C. 3207).

2. Section 348.2 (h), (i), and (l) are amended to read as follows:

§ 348.2 Definitions.

* * * * *

(h)(1) "Management official" means (i) an employee or officer with management functions (including a branch manager); (ii) a director (including an advisory director or honorary director); (iii) a trustee of a business organization under the control of trustees *(e.g.,* a mutual savings bank); or (iv) any person who has a representative or nominee serving in any such capacity. (2) "Management official" does not include (i) a person whose management function relate exclusively to the business of retail merchandising or manufacturing; (ii) a person whose management functions relate principally to the business outside the United States of a foreign commercial bank; or (iii) persons described in the provisions of section 202(4) of the Interlocks Act (12 U.S.C. 3201(4)).

(i) "Office" means a principal or branch office of a depository institution located in the United States. "Office" does not include a representative office of a foreign commercial bank, an electronic terminal, a loan production office, or any office of a depository holding company.

* * * * *

(l) "Total assets" means assets measured on a consolidated basis as of the close of the organization's last fiscal year. The total assets of a depository holding company include the total assets of all of its subsidiary affiliates, except that "total assets" of a diversified savings and loan holding company, as defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)), or of a bank holding company that is exempt from the prohibitions of section 4 of the Bank Holding Company Act of 1956 pursuant to an order issued under section 4(d) of that Act (12 U.S.C. 1843(d)), means only the total assets of its depository institution affiliate. "Total assets" of a United States branch or agency of a foreign commercial bank means total assets of such branch or agency itself exclusive of the assets of the other offices of the foreign commercial bank.

* * * * *

3. Paragraphs (a) and (b) of § 348.3 are revised as follows:

§ 348.3 General prohibitions.

(a) *Community.* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if:

(1) Both are depository institutions and each has an office in the same community;

(2) Offices of depository institution affiliates of both are located in the same community; or

(3) One is a depository institution that has an office in the same community as a depository institution affiliate of the other.

(b) *Standard Metropolitan Statistical Area* ("SMSA"). A management official of a depository organization may not serve at the same time as a management official or another depository organization not affiliated with it if:

(1) Both are depository institutions, each has an office in the same SMSA, and either institution has total assets of $20 million or more;

(2) Offices of depository institution affiliates of both are located in the same SMSA and either of the depository institution affiliates has total assets of $20 million or more; or

(3) One is a depository institution that has an office in the same SMSA as a depository institution affiliate of the other and either the depository institution or the depository institution affiliate has total assets of $20 million or more.

* * * * *

(4) Paragraphs (b) introductory text, (b) (1), (2), (3), and (5), and (c) of § 348.4 are revised as follows:

§ 348.4 Permitted interlocking relationships.

* * * * *

(b) *Interlocking relationships permitted by agency order.* A management official or a prospective management official of an insured nonmember bank or any affiliate thereof may enter into an otherwise prohibited interlocking relationship with a depository organization that falls within one of the classifications enumerated in this paragraph (b) if the Federal supervisory agency (as specified in section 207 of the Interlocks Act) of the organization that falls within one of the classifications determines that the relationship meets the requirements set forth in this paragraph. If the depository organization that falls within one of the classifications set out below is not subject to the interlocks regulations of any of the Federal supervisory agencies, then the FDIC shall determine whether the relationship meets the requirements of this paragraph.

(1) *Organization in low-income area; minority or women's organization.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations is (i) located, or to be located, in a low-income or other economically depressed area, or (ii) controlled or managed by persons who are members of minority groups or by women, subject to the following conditions: (A) The relationship is necessary to provide management or operating expertise to the organization specified in paragraph (b)(1) (i) or (ii) above; (B) no interlocking relationship permitted by this paragraph shall continue for more than five years; and (C) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(2) *Newly-chartered organization.* A person may serve at the same time as a management official of two or more depository organizations if one of the depository organizations (or affiliates thereof) is a newly-chartered organization, subject to the following conditions: (i) The relationship is necessary to provide management or operating expertise to the newly-created organization; (ii) no interlocking relationship permitted by this paragraph shall continue for more than two years after the newly-chartered organization commences business; and (iii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(3) *Conditions endangering safety or soundness.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations faces conditions endangering the organization's safety or soundness, subject to the following conditions: (i) The relationship is necessary to provide management or operating expertise to such organization facing conditions endangering safety or soundness; and (ii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

* * * * *

(5) *Loss of management officials due to change in circumstance.* If a depository organization is likely to lose 30 percent or more of its directors or of its total management officials due to a change in circumstances described in § 348.6 of this part, the affected management officials may continue to serve in excess of the time periods specified in § 348.6, Provided That: (i) the depository organization's prospective loss of management officials or directors will be disruptive to the internal management of the depository organization; (ii) the depository organization demonstrates that, absent a grant of relief in accordance with this paragraph, 30 percent or more of either its directors or management officials are likely to sever their interlocking relationships with the depository organization; (iii) if the prospective losses of management officials resulted from more than one change in circumstances, such changes in circumstances must have occurred within a fifteen-month period; and (iv) the depository organization develops a plan for the orderly termination of service by each such management official over a period not longer than 30 months after the change in circumstances which caused the person's service to become prohibited (but if the loss of management officials is the result of more than one change in circumstances, the 30-month period is measured from the first change in circumstances). Other conditions in addition to or in lieu of the foregoing may be imposed by the Federal supervisory agency. In evaluating requests made pursuant to this paragraph, the Federal supervisory agency will presume that a director who also is a paid, full-time employee of the depository organization, absent unusual circumstances, will not resign from the position of director with that depository organization. This presumption may, however, be rebutted by a showing that such unusual circumstances exist.

(c) *Diversified savings and loan holding company.* Notwithstanding § 348.3, a person who serves as a management official of a depository organization and of a nondepository organization (or any subsidiary thereof) is not prohibited from continuing the interlocking service when the nondepository organization becomes a diversified savings and loan holding company as that term is defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)), and may continue to serve until November 10, 1988, despite the occurrence of any changes in circumstances, whether or not those changes in circumstances occurred prior to November 30, 1983.

5. Section 348.6 is revised to read as follows:

§ 348.6 Changes in circumstances.

(a) *Non-grandfathered interlocks.* If a person's service as a management official is not grandfathered under § 348.5 of this part, the person's service must be terminated if a change in circumstances causes such service to become prohibited. Such a change may include, but is not limited to, an increase in asset size of an organization due to natural growth, a change in SMSA or community boundaries or the designation of a new SMSA, an acquisition, merger, or consolidation, the establishment of an office, or a disaffiliation.

(b) *Grace period.* If a person's nongrandfathered service as a management official becomes prohibited under paragraph (a) of this section, the person may continue to serve as a management official of all organizations involved in the prohibited interlocking relationship until 15 months after the date on which the change in circumstances that caused the interlock to become prohibited occurred, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period.

By Order of the Board of Directors of the Federal Deposit Insurance Corporation this 12th day of September 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

BILLING CODE 6714-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 711

Management Official Interlocks

1. The authority citation for Part 711 reads as follows:

Authority: Depository Institution Management Interlocks Act, 92 Stat. 3674 (12 U.S.C. 3201 et. seq.)

PART 711—[AMENDED]

2. Paragraphs (h), (i) and (l) of § 711.2 are revised as follows:

§ 711.2 Definitions.

* * * * *

(h)(1) "Management official" means (i) an employee or officer with management functions (including a branch manager); (ii) a director (including an advisory director or honorary director); (iii) a trustee of a business organization under the control of trustees (*e.g.*, a mutual savings bank); or (iv) any person who has a representative or nominee serving in any such capacity. (2) "Management official" does not include (i) a person whose management functions relate exclusively to the business of retail merchandising or manufacturing; (ii) a person whose management functions relate principally to the business outside the United States of a foreign commercial bank; or (iii) persons described in the provisos of section 202(4) of the Interlocks Act (12 U.S.C. 3201(4)).

(i) "Office" means a principal or branch office of a depository institution located in the United States. "Office" does not include a representative office of a foreign commercial bank, an electronic terminal, or a loan production office, or any office of a depository holding company.

* * * * *

(l) "Total assets" means assets measured on a consolidated basis as of the close of the organization's last fiscal year. The total assets of a depository holding company include the total assets of all of its subsidiary affiliates, except that "total assets" of a diversified savings and loan holding company as defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730(a)(1)(F)), or of a bank holding company that is exempt from the prohibitions of section 4 of the Bank Holding Company Act of 1956 pursuant to an order issued under section 4(d) of that Act (12 U.S.C. 1843(d)), means only the total assets of its depository institution affiliate. "Total assets" of a United States branch or agency of a foreign commercial bank means total assets of such branch or agency itself exclusive of the assets of the other offices of the foreign commercial bank.

3. Paragraphs (a) and (b) of § 711.3 are revised as follows:

§ 711.3 General prohibitions.

(a) *Community.* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if:

(1) Both are depository institutions and each has an office in the same community;

(2) Offices of depository institution affiliates of both are located in the same community; or

(3) One is a depository institution that has an office in the same community as a depository institution affiliate of the other.

(b) *Standard Metropolitan Statistical Area ("SMSA").* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if:

(1) Both are depository institutions, each has an office in the same SMSA, and either institution has total assets of $20 million or more;

(2) Offices of depository institution affiliates of both are located in the same SMSA and either of the depository institution affiliates has total assets of $20 million or more; or

(3) One is a depository institution that has an office in the same SMSA as a depository institution affiliate of the other and either the depository institution or the despository institution affiliate has total assets of $20 million or more.

* * * * *

4. Section 711.4 is amended by revising the introductory language to paragraph (b), paragraphs (b) (1), (2), (3) and (5) and paragraph (c), to read as follows:

§ 711.4 Permitted interlocking relationships.

* * * * *

(b) *Interlocking relationships permitted by Board order.* A management official or a prospective management official of an insured institution, a savings and loan holding company, or an affiliate of either may enter into an otherwise prohibited interlocking relationship with a depository organization that falls within one of the classifications enumerated in this paragraph (b) if the Federal supervisory agency (as specified in section 207 of the Interlock Act) of the organization that falls within one of the classifications determines that the relationship meets the requirements set forth in this paragraph. If the depository organization that falls within one of the classifications is not subject to the interlocks regulations of any of the Federal supervisory agencies, then the Board shall determine whether the relationship meets the requirements of this paragraph.

(1) *Organization in low-income area; minority or women's organization.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations is (i) located, or to be located, in a low-income or other economically depressed area, or (ii) controlled or managed by persons who are members of minority groups or by women, subject to the following conditions: (A) The relationship is necessary to provide management or operating expertise to the organization specified in paragraphs (b)(1) (i) or (ii) of this section; (B) no interlocking relationship permitted by this paragraph shall continue for more than five years; and (C) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(2) *Newly chartered organization.* A person may serve at the same time as a management official of two or more depository organizations if one of the depository organizations (or an affiliate thereof) is a newly chartered organization, subject to the following conditions: (i) The relationship is necessary to provide management or operating expertise to the newly created organization; (ii) no interlocking relationship permitted by this paragraph shall continue for more than two years after the newly chartered organization commences business; and (iii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(3) *Conditions endangering safety or soundness.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations faces conditions endangering the organization's safety or soundness, provided: (i) The relationship is necessary to provide management or operating expertise to the organization facing conditions endangering safety or soundness; and (ii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

* * * * *

(5) *Loss of management officials due to changes in circumstances.* If a depository organization is likely to lose 30 percent or more of its directors or of its total management officials due to a change in circumstances described in § 711.6 of this Part, the affected management officials may continue to serve in excess of the time periods specified in § 711.6, provided that: (i) The depository organization's prospective loss of management officials or directors will be disruptive to the internal management of the depository organization; (ii) the depository organization demonstrates that, absent a grant of relief in accordance with this paragraph, 30 percent or more of either its directors or management officials are likely to sever their interlocking relationships with the depository organization; (iii) if the prospective losses of management officials resulted from more than one change in circumstances, such changes in circumstances must have occurred within a 15-month period; and (iv) the depository organization develops a plan for the orderly termination of service by each such management official over a period not longer than 30 months after the change in circumstances which caused the person's service to become prohibited (but if the loss of management officials is the result of more than one change in circumstances, the 30-month period is measured from the first change in circumstances). Other conditions in addition to or in lieu of the foregoing may be imposed by the Federal supervisory agency. In evaluating the request submitted pursuant to this paragraph, the Federal supervisory agency will presume that a director who also is a paid, full-time employee of the depository organization, absent unusual circumstances, will not

resign from the position of director with that depository organization. This presumption may, however, be rebutted by a showing that such unusual circumstances exist.

(c) *Diversified savings and loan holding company.* Notwithstanding § 711.3, a person who serves as a management official of a depository organization and of a nondepository organization (or any subsidiary thereof) is not prohibited from continuing the interlocking service when the nondepository organization becomes a diversified savings and loan holding company as that term is defined in § 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)) and may continue to serve until November 10, 1988, despite the occurrence of any changes in circumstances, whether or not those changes in circumstances occurred prior to November 30, 1983.

5. Section 711.6 is revised to read as follows:

§ 711.6 Changes in circumstances.

(a) *Nongrandfathered interlocks.* If a person's service as a management official is not grandfathered under § 711.5 of this Part, the person's service must be terminated if a change in circumstances causes such service to become prohibited. Such a change may include, but is not limited to, an increase in asset size of an organization due to natural growth, a change in SMSA or community boundaries or the designation of a new SMSA, an acquisition, merger or consolidation, the establishment of an office, or a disaffiliation.

(b) *Grace period.* If a person's nongrandfathered service as a management official becomes prohibited under paragraph (a) of this section, the person may continue to serve as a management official of all organizations involved in the prohibited interlocking relationship until 15 months after the date on which the change in circumstances that caused the interlock to become prohibited occurred, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period.

Dated: September 26, 1983.

Rosemary Brady,

Secretary, National Credit Union Administration Board.

[FR Doc. 83-29472 Filed 10-31-83; 8:45 am]

BILLING CODE 7535-01-M

RAILROAD RETIREMENT BOARD

20 CFR Part 396

Regulations Under Section 106 of the Rock Island Railroad Transition and Employee Assistance Act

AGENCY: Railroad Retirement Board.

ACTION: Interim final rule.

SUMMARY: The Railroad Retirement Board hereby adopts a new Part 396 of its regulations to provide for administration of the benefit schedules issued pursuant to section 106 of the Rock Island Railroad Transition and Employee Assistance Act. The benefit schedule, as prescribed by the Federal Railroad Administrator, provides for the payment of benefits of former employees of the Rock Island Railroad. The Railroad Retirement Board has the responsibility to administer the benefit schedule, including the adjudication of claims and award of benefits. This new Part explains the types of benefits that are available, the eligibility requirements for these benefits, and the procedures to be followed in claiming benefits.

EFFECTIVE DATE: November 1, 1983.

ADDRESS: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: James Verplaetse, Bureau of Unemployment and Sickness Insurance, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751-4830 (FTS 387-4830).

SUPPLEMENTARY INFORMATION: The Board is adopting this new Part as an interim final rule because there is not sufficient time to allow for public comment. Funds to pay benefits under the benefit schedule became available October 1, 1983, and under current law no benefits may be paid after April 1, 1984; therefore, it is necessary that this regulation become effective as soon as possible.

The Board has determined that this is not a major rule for purposes of Executive Order 12291. Therefore, no Regulatory Impact Analysis is required.

List of Subjects in 20 CFR Part 396

Railroad employees.

Chapter II of Title 20 of the Code of Federal Regulations is amended by adding the following new Part under Subchapter I:

PART 396—REGULATIONS UNDER SECTION 106 OF THE ROCK ISLAND RAILROAD TRANSITION AND EMPLOYEE ASSISTANCE ACT

Sec.

Authority: 45 U.S.C. 362; 45 U.S.C. 1005; Pub. L. 96-254, 94 Stat. 401; Pub. L. 97-468, 96 Stat. 2543, 2546.

§ 396.1 Purpose.

The Railroad Retirement Board is delegated the responsibility for administering the benefit schedule prescribed by the United States Department of Transportation, Federal Railroad Administrator, on April 28, 1983 pursuant to section 106 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1005), as amended by the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982 (Title II of Pub. L. 97-468, 96 Stat. 2543, 2546). The benefit schedule sets forth what benefits are payable to employees of the Chicago, Rock Island and Pacific Railroad Company who are adversely affected as a result of reductions in service by that railroad. The regulations in this Part describe the benefits provided for in the benefit schedule, set forth the requirements for eligibility for such benefits, provide for the computation of benefits, and set forth the procedures to be followed in claiming benefits and in contesting any adverse determinations with respect to claims for benefits. Benefit schedules have been distributed to each Railroad Retirement Board district office and may be inspected at any of those offices.

§ 396.2 Definitions.

As used in this Part—

"Administrator" means the Federal Railroad Administrator, acting as the delegate of the Secretary of Transportation pursuant to section 1.49 of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.49).

"Acquiring rail carrier" means (a) a carrier, as defined in Article I, section 1(a) of the March 4, 1980, Hiring Agreement, that purchased or entered into a long-term lease of a rail line of the Railroad prior to June 30, 1982, (b) the

operator of rail commuter service on the lines of the Railroad for the Regional Transportation Authority of Illinois, including an affiliate or subsidiary of such Authority or a contract operator.

"Adversely affected" means loss of employment or loss of future employment opportunities with the Railroad as a result of a reduction in service by the Railroad on or after December 4, 1979, provided however, that an employee who accepted a position with the Trustee and who remained employed by the Trustee through June 30, 1982, would not be considered adversely affected.

"Board" means the Railroad Retirement Board.

"Change of residence" means change of place of residence occasioned by a change in work location to a place that is more than 30 normal highway route miles from the residence and also farther from the residence than the former work location.

"Employee" means any person who had an active or residual employment relationship with the Railroad as of August 1, 1979, and who—

(a) performed compensated service at any time during the month of August 1979, or was on authorized vacation or military leave at any time during that month;

(b) was furloughed as of August 1, 1979 and claimed and was allowed railroad unemployment insurance benefits for at least one day during the month of August 1979;

(c) was not in active service on August 1, 1979, due to illness and received RUIA sickness benefits for at least one day of sickness in August 1979; or

(d) was on leave of absence from the Railroad as of August 1, 1979, in order to serve as a collective-bargaining representative elected by employees of the Railroad, including the estate of any employee described in paragraphs (i) through (iv), as represented by the administrator or executor of such estate appointed under the laws of the state of the employee's domicile at death, but not including any individual serving as president, vice president, secretary, treasurer, comptroller, counsel, member of the board of directors of the Railroad, or any other person performing such functions.

"Qualified institution" means an educational institution accredited for payment by the Veterans Administration under chapter 36 of title 38 of the United States Code or a State-accredited institution furnishing education for adults.

"Railroad" refers to the Chicago, Rock Island and Pacific Railroad Company, the estate of such Company in its reorganization proceeding, or the trustee appointed in such proceeding.

"RTA" means the operator of rail commuter service on the lines of the Railroad for the Regional Transportation Authority of Illinois, including an affiliate or subsidiary of such authority or a contract operator.

"RUIA" refers to the Railroad Unemployment Insurance Act, as amended, 45 U.S.C. 351 *et. seq.*

"Subsistence fund" means the amount appropriated for the payment of benefits under this schedule, less the amount estimated by the Board to be required for payment of lump sum reimbursements under section 4 of this schedule.

"Year of service" means each 12 months of service prior to January 1, 1980, creditable under the Railroad Retirement Act of 1974, as amended, as determined from the Board's record of the employee's service and compensation.

§ 396.3 Application for benefits.

(a) *Application.* An application for benefits is to be made on the form prescribed by the Board and shall be filed at any Board office within the time limits set forth in subsection (c) of this section. If an application is not filed on time, no benefits shall be paid or payable under the benefit schedule. The application form shall include a statement of the election and waiver described in subsection (b) of this section.

(b) *Election-Waiver.* The filing of an application for benefits shall be deemed to be an election by the employee to receive benefits under the benefit schedule prescribed by the Federal Railroad Administrator and a waiver of any employee protection benefits otherwise available to such employee (other than moving expenses) under the Bankruptcy Act, subtitle IV of Title 49 of the United States Codes, or any applicable contract or agreement, other than the March 4, 1980, Hiring Agreement.

(c) *Time limits.* An employee shall have until January 31, 1984, to file his or her application. An application shall be considered filed on the date that it is received at an office of the Board.

§ 396.4 Benefit limit and payment.

(a) Total benefits available under the benefit schedule are limited to $35 million or such other sum as may be appropriated for the purposes of the schedule, whichever is less. The United States (including any department, agency, or instrumentality thereof) assumes no liability under the benefit schedule beyond the express terms of the benefit schedule not in excess of funds appropriated and available for expenditure for benefits thereunder. No employee may receive benefits under the benefit schedule in excess of $20,000.

(b) If, for whatever reason, a benefit, due to an individual pursuant to the benefit schedule, is not paid on or before April 1, 1984, it cannot be paid.

§ 396.5 Lump sum reimbursement.

(a) *Maximum lump sum amount.* "Maximum lump sum amount" means, with respect to an employee with at least one year of service, $1,000; and with respect to an employee with less than one year of service, $500. No employee shall be eligible to receive more than the maximum lump sum amount ($1,000 or $500, as applicable) under this section.

(b) *Constructive reimbursement—no offer of employment.* An employee (other than an employee who received an offer of employment described in subsection (c) of this section) who was adversely affected shall be eligible to receive a payment in constructive reimbursement of expenses such as the following: retraining expenses, moving expenses, and health and welfare premiums or services. Such payment shall equal the maximum lump sum amount provided in subsection (a) of this section.

(c) *Constructive reimbursement—offer of employment.* An employee who, prior to June 30, 1982, received an offer of permanent employment in his or her craft or class from an acquiring rail carrier under the March 4, 1980, Hiring Agreement, or the RTA, shall—

(1) if such employee made a change of residence (from his or her place of residence as a Railroad employee) in order to accept rail employment, be eligible to receive a payment in the maximum lump sum amount in constructive reimbursement of expenses incurred in such relocation;

(2) if such employee, prior to receiving such offer of employment, claimed and received unemployment benefits under the RUIA for one or more registration periods that began on or after December 4, 1979, in which each day was claimed and allowed as a day of unemployment, be eligible to receive a payment equal to $125 multiplied by the number of such registration periods of unemployment, not to exceed the maximum lump sum amount; or

(3) if such employee, prior to receiving such offer of employment, entered upon a program of retraining for a new occupation and incurred actual expenses or obligations attendant to

such program, be eligible to receive a payment equal to the amount of actual expenses paid by such employee to a qualified institution, not to exceed the maximum lump sum amount.

An employee who is eligible to receive lump sum payments under both subparagraph (2) and subparagraph (3) of this subsection shall receive a payment equal to the aggregate of such payments not exceed the maximum lump sum amount.

§ 396.6 Retroactive unemployment subsistence allowance.

(a) *Eligibility.* An employee who was adversely affected and who claimed and was allowed unemployment insurance benefits for one or more days of unemployment under the RUIA with respect to the period December 4, 1979, through June 30, 1982, shall be eligible to receive a retroactive unemployment subsistence allowance to be paid, at the discretion of the Board, in one or more payments as necessary to assure prompt and equitable distribution of benefits. No employee may receive retroactive unemployment subsistence allowance benefits based on any day of RUIA unemployment after which the employee has received an offer of permanent employment in the employee's class or craft from an acquiring rail carrier under the March 4, 1980, Hiring Agreement, or had received and refused an offer of permanent employment with the RTA.

(b) *Computation.* The retroactive unemployment subsistence allowance shall be based on the number of days for which the applicant claimed and received unemployment benefits under the RUIA for registration periods beginning during the period December 4, 1979, through June 30, 1982. The daily benefit rate for an employee with less than 10 years of service shall be .75 times the rate of an employee with 10 or more years of service. The board shall compute allowable benefits by a method that takes into consideration the aggregate number of days of unemployment for all claimants and the amount available for payment of benefits in the Subsistence Fund. There shall be counted as a day or days of RUIA unemployment any uninterrupted period with respect to which an employee claims and is allowed sickness benefits under the RUIA that either immediately precedes or immediately follows a day of unemployment under the RUIA that is creditable for such computations. The Board shall not include in its computations of final benefit amounts under this section any day of unemployment with respect to which benefits paid have been determined by the Board to be recoverable.

§ 396.7 Offers of employment.

An employee shall not be deemed to have received an offer of employment for purposes of §§ 396.5 or 396.6 of this part if—

(a) in the case of an offer from the RTA, the employee declined such offer but had not previously declined any offer of employment under the March 4, 1980, Hiring Agreement; and

(b) in the case of an offer from an acquiring carrier under the March 4, 1980, Hiring Agreement, the employee declined such offer but (1) did not by such declination exhaust his or her rights to priority hiring under such Agreement, and (2) had not previously declined an offer of employment in his or her class or craft from the RTA.

§ 396.8 Initial determinations and arbitration.

(a) *Initial determinations with respect to applications and claims.* Each claim for benefits under this Part shall be adjudicated and the initial determination with respect thereto shall be made upon the basis of the application and any statement or supplements filed in connection therewith, the evidence submitted by the claimant, and evidence otherwise available.

(b) *Notice of initial determination.* Notice of an initial determination that denies in whole or in part a claim for benefits shall contain a brief statement of the reason for the denial and shall be communicated in writing to the claimant within 15 days after such initial determination is made. Such notice shall contain an explanation of the procedures to be followed by the claimant to contest such determination. Notice shall be deemed to have been communicated to the claimant when it is mailed to the claimant at the latest address furnished by him or her.

(c) *Arbitration.* (1) Within 15 days after notice of an initial determination has been issued pursuant to 396.8(b), any claimant who is dissatisfied with the decision may request resolution of the dispute by final and binding arbitration. As used in this section the term "dispute" refers to any dispute over an employee's eligibility or claim which involves factual issues or the construction of the benefit schedule and excludes issues which are solely computational in nature or only involve questions of law or the benefit schedule prescribed pursuant to the law. A claimant may request final and binding arbitration by mailing a letter to the Director of Unemployment and Sickness Insurance, stating the basis for the request. Unless a request for final and binding arbitration is filed by the claimant in the manner and within the time provided herein, all rights to review of the initial determination are forfeited.

(2) If the Director of Unemployment and Sickness Insurance finds that the request for final and binding arbitration involves issues which are solely computational in nature or only questions of law or the benefit schedule prescribed pursuant to the law, the Director of Unemployment and Sickness Insurance will review all evidence presented and decide whether to sustain or reverse the initial determination. Notice of the decision made upon the review shall be communicated to the claimant in writing within 15 days after such decision is made. Such decision upon review shall be final, binding and conclusive.

(3) As soon as possible after a claimant has filed a request for arbitration of a dispute, the Ordering Officer, who shall be named by the Director of Unemployment and Sickness Insurance, shall appoint an arbitrator to hear the dispute. Such arbitrator shall not have any interest in the parties or in the outcome of the proceeding, or have participated in the initial determination on the claim, or have any other interest that might prevent a fair and impartial hearing. Upon appointing an arbitrator and scheduling hearing on the dispute, the Ordering Officer shall provide written notice to the properly interested parties of the hearing identifying the appointed arbitrator and specifying the place and time of the hearing.

(4) The decision of the arbitrator shall be mailed to the Ordering Officer who shall within five days from acceptance of the decision mail a copy of the decision to the claimant and furnish a copy thereof to the Director of Unemployment and Sickness Insurance. The decision of the arbitrator shall be final, binding and conclusive.

§ 396.9 Recovery of benefits.

(a) *Authorization.* If it is determined by the Board that benefits under any provision of this Part have been paid erroneously, the erroneous payment shall be recovered in full unless a compromise is approved under subsection (c) of this section. An erroneous payment may be recovered by any one or a combination of the methods described in subsection (b) of this section.

(b) *Methods of recovery.*—(1) *Recovery by cash payment.* The Board shall have the right to require that amounts recoverable be immediately

and fully repaid in cash, and any debtor shall have the absolute right to repay such amount recoverable in this manner. However, if the debtor is financially unable to pay the indebtedness in a lump sum, payment may be accepted in regular installments. The amount and frequency of such installment payments should bear a reasonable relation to the size of the debt and the debtor's ability to pay. Whenever possible, installment payments should be sufficient in amounts and frequency to liquidate the debt in not more than three years.

(2) *Recovery by setoff.* An erroneous payment of benefits may be recovered by setoff against any benefit to which the employee is entitled under any Act administered by the Board. In the case of that individual's death, the erroneous payment may be recovered from any payments due under those Acts to his or her estate, designee, next of kin, legal representative, or surviving spouse. If full recovery is not effected by setoff, the balance due may be recovered by one or more of the other methods described in this Part. If the individual dies before recovery is completed, recovery shall be made from his or her estate or heirs.

(c) *Compromise of amounts recoverable.* (1) The Board or the Director of Unemployment and Sickness Insurance may compromise an amount recoverable, provided such amount does not exceed $20,000. Compromise of an amount recoverable may not be considered in any case in which there is an indication of fraud, the presentation of a false claim, or misrepresentation. Compromise is at all times within the discretionary authority of the Board or the Director of Unemployment and Sickness Insurance.

(2) The Board or the Director of Unemployment and Sickness Insurance shall compromise claims only pursuant to standards established by the Comptroller General and the Attorney General.

(d) *Suspension or termination of collection action.* Collection action on a Board claim may be suspended or terminated under the following conditions:

(1) Collection action on a Board claim may be suspended temporarily when the debtor cannot be located and there is reason to believe that future collection action may be productive or that collection may be effected by setoff in the near future.

(2) Collection action may be terminated when:

(i) the debtor is unable to make any substantial payment;

(ii) the debtor cannot be located and setoff is too remote to justify retention of the claim;

(iii) the cost of collection action will exceed the amount recoverable;

(iv) the claim is legally without merit or cannot be substantiated by the evidence.

§ 396.10 Employer reports.

Upon request, the Chicago, Rock Island and Pacific Railroad and any acquiring carrier shall provide any information in its possession that the Board might reasonably require to determine eligibility for benefits. The Board will restrict its request to just that information that it needs for proper administration. In the event of any refusal to provide relevant information, the provisions of sections 12 (a) and (b) of the Railroad Unemployment Insurance Act (45 U.S.C. 362 (a) and (b)) shall be available to the Board to enforce its request.

Dated: October 25, 1983.

By Authority of the Board.

Beatrice Ezerski,

Secretary.

[FR Doc. 83-29564 Filed 10-31-83; 8:45 am]

BILLING CODE 7905-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74, 81, and 82

[Docket No. 76N-0366]

Provisional Listing of D&C Yellow No. 10; Postponement of Closing Date and Stay of Effectiveness

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of D&C Yellow No. 10 for use as a color additive in drugs and cosmetics. The new closing date will be January 3, 1984. FDA is establishing a new closing date for D&C Yellow No. 10 to give the agency time to complete its evaluation of objections received in response to the final regulation approving the petition for the permanent listing of D&C Yellow No. 10. The final rule that permanently lists D&C Yellow No. 10 and that removes it from the provisional list is stayed until January 3, 1984.

DATES: Effective November 1, 1983, the new closing date for D&C Yellow No. 10 will be January 3, 1984. The amendments to 21 CFR 74.1710, 74.2710, 81.1, 81.25, 81.27, and 82.1710 that were published on August 30, 1983 (48 FR 39217) are stayed until January 3, 1984.

FOR FURTHER INFORMATION CONTACT: James H. Maryanski, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 30, 1983 (48 FR 39217), FDA published a final rule that would "permanently" list D&C Yellow No. 10 for use in drugs and cosmetics, except for use in the area of the eye. The final rule also amended § 81.1(b) (21 CFR 81.1(b) by removing D&C Yellow No. 10 from the provisional list of color additives, § 81.25 (21 CFR 81.25) by removing paragraphs (a)(1), (b)(1)(i), and (c)(1), and § 81.27(d) (21 CFR 81.27(d)) by removing D&C Yellow No. 10 from the conditions of provisional listing. Additionally, the final rule amended § 82.1710 (21 CFR 82.1710) for D&C Yellow No. 10 to reference § 74.1710(a)(1) and (b) (21 CFR 74.1710(a)(1) and (b)).

The agency stated that the final rule would become effective on September 30, 1983, unless stayed by the filing of proper objections. At the same time, to provide for the continued use of D&C Yellow No. 10 during the period established for receipt and evaluation of objections, FDA established the current closing date of November 1, 1983, for the provisional listing of D&C Yellow No. 10 for use in drugs and cosmetics (48 FR 39220).

FDA received three letters objecting to the listing regulation. Because of the objections, under section 701(e)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)(2)), the final rule (48 FR 39217) that permanently lists D&C Yellow No. 10 and that removes this color additive from the provisional list is stayed until the agency can rule on the objections. FDA expects that it will need only a brief time to complete its evaluation of the objections. Therefore, FDA concludes that only a brief postponement is necessary at this time. The regulation set forth below will postpone the November 1, 1983 closing date for the provisional listing of D&C Yellow No. 10 Until January 3, 1984.

Because of the short time until the November 1, 1983 closing date, FDA concludes that notice and public procedure on this regulation is impracticable. Thus, good cause exists for issuing the postponement as a final rule. Moreover, this action is consistent with the protection of the public health because the agency has previously concluded that D&C Yellow No. 10 is

safe for its intended uses. This regulation will permit the uninterrupted use of this color additive until January 3, 1984. To prevent any interruption in the provisional listing of D&C Yellow No. 10 and in accordance with 5 U.S.C. 553(d)(1) and (3), this final rule is being made effective on November 1, 1983.

List of Subjects in 21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

PARTS 74, 81 AND 82 [AMENDED]

§§ 74.1710 and 79.2710 [Effective date temporarily stayed]

§§ 81.1, 81.25 and 81.27 and 82.1710 [Effective dates temporarily stayed in part]

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706 (b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376 (b), (c), and (d))) and under the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), the effective date of the final rule (adding 21 CFR 74.1710 and 74.2710 and amending 21 CFR 81.1(b), 81.25(a)(1), (b)(1)(i), and (c)(1), and 81.27(d) and 82.1710), which published in the **Federal Register** of August 30, 1983 (48 FR 39217), is stayed until January 3, 1984, and Part 81, *General Specifications and General Restrictions for Provisional Color Additives for Use in Foods, Drugs, and Cosmetics*, is amended as follows:

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives*, by revising the closing date for "D&C Yellow No. 10" in paragraph (b) to read "January 3, 1984."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing*, by revising the closing date for "D&C Yellow No. 10" in paragraph (d) to read "January 3, 1984."

Effective date. This final rule shall be effective November 1, 1983.

(Secs. 701, 706 (b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376 (b), (c) and (d)); sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note))

Dated: October 19, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-29465 Filed 10-31-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Order No. 1033-83]

Delegation of Authority To Deputize Marshals

AGENCY: Office of the Attorney General, Justice.

ACTION: Final rule.

SUMMARY: This Order authorizes the Director of the United States Marshals service to deputize employees of private security companies so that they may provide courtroom security for federal judges in any district designated by the Director.

EFFECTIVE DATE: October 24, 1983.

FOR FURTHER INFORMATION CONTACT: William E. Hall, Director, United States Marshals Service Room 201, Tysons Corner Center Building, McLean, Virginia (285–1111).

SUPPLEMENTARY INFORMATION: The present delegation authority permits the Director to deputize employees of the federal government and state and local law enforcement officers. This Order expands the Director's authority so that he may also deputize employees of private security companies.

This Order is not a rule within the meaning of either Executive Order 12291, Section 1(a) or the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

The index term for Part 0 of Title 28 of the Code of Federal Regulations is as follows:

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies).

PART 0—[AMENDED]

By virtue of the authority vested in me as Attorney General by 28 U.S.C. 509, 510, 562 and 5 U.S.C. § 301, Part 0 of Title 28 of the Code of Federal Regulations is hereby amended as follows:

§ 0.112 [Amended]

1. Section 0.112 is amended by adding a sentence at the end, reading as follows:

* * * The Director is also authorized to deputize selected employees of private security companies to perform the functions of a U.S. Deputy Marshal in providing courtroom security for the Federal judiciary in any district designated by the Director.

Dated: October 24, 1983.

William French Smith,

Attorney General.

[FR Doc. 83-29597 Filed 10-31-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Employment Standards Administration

29 CFR Parts 1 and 5

Procedures for Predetermination of Wage Rates; Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction and to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Technical amendments.

SUMMARY: This document amends certain sections of Department of Labor regulations relating to labor standards applicable to contracts for federally financed and assisted construction, in order to conform the regulations to recent changes in organizational subcomponents within the Wage and Hour Division of the Department's Employment Standards Administration.

EFFECTIVE DATE: November 1, 1983.

FOR FURTHER INFORMATION CONTACT: William M. Otter, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone: 202–523–8305.

SUPPLEMENTARY INFORMATION: Pursuant to a recent reorganization in the national office of the Wage and Hour Division, certain functions relating to the administration of the labor standards provisions applicable to Federal and federally assisted construction contracts under the Davis-Bacon and Related Acts will no longer be performed by the Office of Government Contract Wage Standards (OGCWS). Procedural changes in the text of 29 CFR Parts 1 and 5 are therefore required. Moreover, because the designations of the organizational components or subordinate officials in the Wage and Hour Division have no effect on the vesting of the Wage and Hour Administrator's authority in a designee, it is unecessary to designate such components or subordinate officials in

the regulations. Accordingly, the current references to OGCWS, to the Deputy Administrator, and to the Assistant Administrator for Government Contract Wage Standards are being deleted.

Publication in Final

Since these revisions involve only procedural changes necessitated by agency reorganization and internal procedures and practices, notice of proposed rulemaking and public comment on this rule is found to be unnecessary. Futhermore, the Secretary has determined that good cause exists for waiving the customary requirement for delay in the effective date of a final rule for 30 days following its publication. Therefore, these amendments to Parts 1 and 5 are adopted as a final rule without notice and comment and shall be effective immediately. See 5 U.S.C. 553(b) and 553(d).

Classification

This rule is not classified as a "rule" under Executive Order 12291 on Federal Regulations because it is a regulation relating to agency organization, management or personnel. See Section 1(a)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for the rule under 5 U.S.C. 553(b) the requirements of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1165, 5 U.S.C. 601 et seq. pertaining to regulatory flexibility analysis, do not apply to this rule. See 5 U.S.C. 601(2).

The rule is not subject to section 3504(h) of the Paperwork Reduction Act, 44 U.S.C. 3504(h), since it does not require the collection of information.

List of Subjects

29 CFR Part 1

Administrative practice and procedures, Government Contracts, Labor, Minimum wages, Wages.

29 CFR Part 5

Administrative practice and procedures, Government contracts, Investigations, Labor, Minimum wages, Penalties, Recordkeeping requirements, Reporting requirements, Wages.

Accordingly, 29 CFR Parts 1 and 5 are amended as set forth below.

Signed at Washington, D.C. on this 26th day of October 1983.

Robert B. Collyer

Deputy Under Secretary for Employment Standards.

William M. Otter,

Administrator, Wage and Hour Division.

PART 1—PROCEDURES FOR PREDETERMINATION OF WAGE RATES

1. In § 1.2, paragraph (c) is revised to read as follows:

§ 1.2 Definitions.[1]

* * * * *

(c) The term "Administrator" shall mean the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, or authorized representative.

* * * * *

2. In § 1.5, paragraph (a)(1) is revised to read as follows:

* * * * *

§ 1.5 Procedure for requesting wage determinations.

(a)(1) Except as provided in paragraph (b) of this section, the Federal agency shall initially request a wage determination under the Davis-Bacon Act or any of its related prevailing wage statutes by submitting Standard Form 308 to the Department of Labor at this address:

U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Branch of Construction Contract Wage Determination, Washington, D.C. 20210.

The agency shall check only those classifications on the applicable form which will be needed in the performance of the work. Inserting a note such as "entire schedule" or "all applicable classifications" is not sufficient. Additional classifications needed which are not on the form may be typed in the blank spaces or on a separate list and attached to the form.

* * * * *

Authority: 5 U.S.C. 301; R.S. 161, 64 Stat. 1267; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 29 U.S.C. 259; 40 U.S.C. 276a—276a-7; 40 U.S.C. 276c; and the laws listed in Appendix A of this Part.

[1] * * *

PART 5—LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NONCONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT)

3. In § 5.2, paragraph (b) is revised to read as follows:

§ 5.2 Definitions.

* * * * *

(b) The term "Administrator" means the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, or authorized representative.

* * * * *

4. In § 5.12, paragraph (d)(3)(i) is revised to read as follows:

§ 5.12 Debarment proceedings.

* * * * *

(d) * * *

(3)(i) A request for a determination of interest (or substantial interest, as appropriate), may be made by any interested party, including contractors or prospective contractors and associations of contractor's representatives of employees, and interested Government agencies. Such a request shall be submitted in writing to the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210.

Authority: 40 U.S.C. 276a-276a-7; 40 U.S.C. 276c; 40 U.S.C. 327-332; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 5 U.S.C. 301; and the statutes listed in section 5.1(a) of this part.

[FR Doc. 83-29633 Filed 10-31-83; 8:45 am]

BILLING CODE 4510-27-M

VETERANS ADMINISTRATION

38 CFR Part 3

Ionizing Radiation Claims

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: A recent decision in the case of *Gott* v. *Nimmo* held that the texts of three documents, considered procedural by the Veterans Administration,