Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 307 and 381

[Docket No. 85-028]

Overtime and Holiday Inspection Service

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends provisions in the Federal meat and poultry products inspection regulations listing holidays for Federal empolyees to reflect that the birthday of Martin Luther King, Jr., will become an official Federal holiday beginning in January 1986.

EFFECTIVE DATE: January 1, 1986.

FOR FURTHER INFORMATION CONTACT: Irwin Dubinsky, Director, Policy Office, Policy and Planning Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6735.

SUPPLEMENTARY INFORMATION: Pub. L. 98-144 (5 U.S.C. 6103) which became effective November 2, 1983, requires that the meat and poultry products inspection regulations be amended to show that the birthday of Martin Luther King, Jr., is an offical Federal holiday. The provisions in § 307.5(b) of the Federal meat inspection regulations (9 CFR 307.5(b)) and in § 381.38(b) of the poultry products inspection regulations (9 CFR 381.38(b)) listing holidays for Federal employees are hereby amended to reflect this change.

These amendments are made as a result of a legislative act made by Congress and to become effective on the first January 1 occurring after the 2-year period following the date of the enactment of such action. That law requires a change in agency practice as set forth in its regulations. This change does not require notice and comment under the Administrative Procedure Act (5 U.S.C. 553).

Accordingly, the Federal meat and poultry products inspection regulations are amended by revising the first sentence of paragraph (b), section 307.5 and the first sentence of paragraph (b) of § 381.38 to insert immediately below the item relating to New Year's Day as follows:

"Birthday of Martin Luther King, Jr., the third Monday in January."

Done at Washington, DC on: December 11, 1985.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

List of Subjects in 9 CFR Parts 307 and 381

Meat inspection, Government employees.

PARTS 307 AND 381—[AMENDED]

Part 307 of the Federal meat inspection regulations (9 CFR 307) and Part 381 of the Federal poultry products inspection regulations (9 CFR 381) are amended as follows:

1. The authority citation for Part 307 continues to read as follows:

Authority: 41 Stat. 241, 7 U.S.C. 394; 34 Stat. 1264, as amended; 21 U.S.C. 621; 62 Stat. 334; 21 U.S.C. 695, 7 CFR 2.5(a), 2.92.

§ 307.5 [Amended]

2. Section 307.5(b) is amended by inserting "Birthday of Martin Luther King, Jr., the third Monday in January;" after "New Year's Day, January 1;".

3. The authority citation for Part 381 continues to read as follows:

Authority: 71 Stat. 441, 82 Stat. 791, as amended, 21 U.S.C. 451 *et seq.*; 76 Stat. 663 (7 U.S.C. 450 *et seq.*), unless otherwise noted.

§ 381.38 [Amended]

4. Section 381.38(b) is amended by inserting "Birthday of Martin Luther King, Jr., the third Monday in January;" after "New Year's Day, January 1;".

[FR Doc. 85-29711 Filed 12-17-85; 8:45 am]
BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85-AWP-32]

Alteration of Santa Ynez, CA, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends the existing transition area at Santa Ynez, California. The extension of the 700 foot transition area is required to contain the Standard Instrument Approach Procedures (SIAP) established for Santa Ynez Airport, Santa Ynez, California. This action is necessary to provide sufficient controlled airspace to contain Instrument Flight Rules (IFR) operations at Santa Ynez Airport.

EFFECTIVE DATE: 0901 G.M.T., March 13, 1986.

FOR FURTHER INFORMATION CONTACT: Joe Fowler, Airspace Branch, Air Traffic Division, Federal Aviation Administration (FAA), 15000 Aviation Boulevard, Lawndale, California 90261; telephone (213) 297-1655.

SUPPLEMENTARY INFORMATION:

History

On September 16, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to provide additional controlled airspace to ensure that aircraft conducting Instrument Flight Rules (IFR) operations at Santa Ynez Airport are contained within controlled airspace (50 FR 37542).

Interested parties were invited to participate in this relemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to § 71.181 of the

Federal Aviation Regulations will expand the 700 foot transition area to contain the Standard Instrument Approach Procedures at Santa Ynez Airport, Santa Ynez, California.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally currrent. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Transition areas, Control zones.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the FAR as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Santa Ynez, CA—[Revised]

That airspace extending upward from 700 feet above the surface beginning at a point lat. 34°33'33" N., long. 120°00'10" W.; to lat. 34°29'00" N., long. 120°06'00" W.; to lat. 34°29'00" N., long. 120°12'20" W.; to lat. 34°37'10" N., long. 120°22'30" W.; to lat. 34°45'40" N., long. 120°18'40" W.; to lat. 34°40'30"N., long. 120°02'00" W.; thence within a 5-mile radius circle of Santa Ynez Airport (lat. 34°36'25" N., long. 120°04'30" W.); to the point of beginning.

Issued in Los Angeles, California, on December 3, 1985.

B. Keith Potts,

Acting Director, Western-Pacific Region.

[FR Doc. 85-29848 Filed 12-17-85; 8:45 am]

BILLING CODE 4910-13-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1500 and 1510

Banning of Hazardous Articles and Establishment of Safety Requirements; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects an error contained in the final rule on the requirements for rattles that was published on May 23, 1978 (43 FR 22002, 22006).

FOR FURTHER INFORMATION CONTACT: Alan Shakin, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6980.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-14166, appearing on page 22006, in the **Federal Register** of Tuesday, May 23, 1978, correct the first line of the authority citation to read:

"**Authority:** Secs. 2 (f)(1)(D), (q)(1)(A), (s)."

Dated: December 12, 1985.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 85-29845 Filed 12-17-85; 8:45 am]

BILLING CODE 6355-01-M

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16 CFR Part 1700

Packaging Act of 1970 Regulations; Final Exemption of Oral Contraceptives From Child-Resistant Packaging Requirements; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Final exemption; correction.

SUMMARY: This document corrects an error contained in the final exemption of oral contraceptives from child-resistant packaging requirements that was published on November 7, 1984 (49 FR 44455, 44457).

FOR FURTHER INFORMATION CONTACT: Alan Shakin, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6980.

SUPPLEMENTARY INFORMATION: In FR Doc. 84-29223, appearing on page 44457, in the **Federal Register** of Wednesday, November 7, 1984, correct § 1700.14(a)(10)(iv), line 3, 1st word to read "mnemonic". It now reads "memonic".

Dated: December 12, 1985.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 85-29846 Filed 12-17-85; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Eligibility; Amount of Benefits; Payment of Benefits, Overpayments, and Underpayments, Reports Required; Income; Resources; and State Supplementation Provisions, Agreements; Payments

Correction

In FR Doc. 85-27698 beginning on page 48563 in the issue of Tuesday, November 26, 1985, make the following corrections:

1. On page 48565, third column, second complete paragraph, third line, "effect" should read "affect".

2. On page 48566, first column, first paragraph, twelfth line, "exclusion" should read "exclusions"; in the the twenty-third line, "some" should read "one"; and in the seventh line from the bottom, "from" should appear between "source" and "being".

3. On page 48567, first column, second line from the bottom, "inocme" should read "income"; and in the third column, second complete paragraph, third line, "issued" should read "issue".

4. On page 48571, first column, § 416.414(b)(3)(ii), last line, "(b)(3), (i)" should read "(b)(3)(i)".

5. On the same page, second column, Example 1, third line, "Mr. X's" should read "Mrs. X's".

6. On page 48578, second column, paragraph designated as (7), twenty-first line, "(b)(4)" should read "(f)(4)".

BILLING CODE 1505-01-M

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20 CFR Part 416

[Reg. No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Public Emergency Shelters for the Homeless

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: These rules provide that an aged, blind, or disabled person who is a resident of a public emergency shelter for the homeless throughout a month may be eligible for Supplemental Security Income (SSI) benefits for up to 3 months in any 12-month period. This is an exception to the general limitation on SSI eligibility for individuals who are residents of a public institution throughout a month. The rules reflect section 1611(e)(1)(D) of the Social Security Act, which was added by section 403 of Pub. L. 98-21 (the Social Security Amendments of 1983).

DATE: These rules are effective December 18, 1985; however, the statutory provision which they reflect has been in effect since May 1983.

FOR FURTHER INFORMATION CONTACT: Harry J. Short, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, Telephone 301-594-7337.

SUPPLEMENTARY INFORMATION: Section 1611(e)(1)(A) of the Social Security Act (the Act) provides that, with certain limited exceptions, no person may be eligible for benefits for months throughout which he or she is an inmate (i.e., resident) of a public institution. Sections 1611(e)(1) (B) and (C), which were in effect prior to enactment of Pub. L. 98-21 and are already reflected in regulations, provide exceptions for residents of certain medical institutions which receive payments for the cost of an individual's care from Medicaid and for residents of publicly operated community residences having 16 or fewer residents. Section 1611(e)(1)(D), which was added by Pub. L. 98-21, provides the additional exception that aged, blind, or disabled individuals who are residents of a public emergency shelter for the homeless throughout a month may be eligible for SSI benefits for up to 3 months in any 12-month period. This statutory provision was effective for months beginning with May 1983.

Prior to enactment of Pub. L. 98-21, residents of public emergency shelters for the homeless throughout a month were ineligible for SSI benefits, while similar residents of private emergency shelters could be eligible for SSI benefits. This additional exception provides for more uniform treatment of homeless individuals residing in public and private emergency shelters.

Regulatory Provisions

Exception for Residents of Public Emergency Shelters for the Homeless

We revised the rules in § 416.211 (You are a resident of a public institution) to reflect the additional exception to the rule that a person is not eligible for SSI benefits for any months throughout which he or she is a resident of a public institution. This exception provides that an individual who is a resident of a public emergency shelter for the homeless can be eligible for SSI benefits for any full calendar month throughout which he or she is a resident of such shelter for up to 3 months in any 12 month period.

Suspension of Benefits

We revised § 416.1325 (Suspension due to status as an inmate of an institution) to show that we will not suspend an individual's benefits for up to 3 full calendar months throughout which he or she is a resident of a public emergency shelter for the homeless in any 12-month period. We also revised § 416.1325 to provide for suspension of benefits beginning with the month after the individual has received benefits for the maximum 3 full calendar months in a 12-month period, if such individual is not otherwise eligible for benefits.

"Public Emergency Shelter for the Homeless"

Section 1611(e)(1)(D) of the Act requires the Secretary of Health and Human Services to define by regulation the term "public emergency shelter for the homeless". In developing a definition for "public emergency shelter for the homeless" we were guided by legislative history and the definitions of "institution" and "public institution", both of which were already included in § 416.201. Thus, a public emergency shelter for the homeless must make available some treatment and services in addition to food and shelter. Also, it must be used by the Federal government, a State, or a political subdivision of the State primarily to make available on a temporary basis a place to sleep, food, and some services or treatment to homeless individuals. By "emergency shelter" we mean a shelter for individuals whose homelessness poses a threat to their lives or health. A "homeless individual" is one who is not in the custody of any public institution and has no currently usable place to live. An individual who is in custody is not homeless because the governmental unit that has custody of the individual has the obligation to provide shelter for the person. An individual who for whatever reason no longer has access to his or her dwelling place is homeless. Likewise, an individual who has available shelter but the use of which presents a probability of bodily harm, is considered homeless for purposes of this provision. A medical care facility (as defined in § 416.201) or a holding facility, halfway house, foster care facility, detoxification center, or the like, that retains custody of the individual is not a public emergency shelter for the homeless because individuals under the care and control of the State (or political subdivision) in such facilities meet the definition of custody and are not homeless. Therefore, these facilities do not serve a population that would qualify them as emergency shelters for the homeless. We discuss these definitions in § 416.201 (General definitions and terms used in Subpart B).

"Any 12-month Period"

We also revised § 416.201 to define the term "any 12-month period" as the current full calendar month throughout which an individual is residing in a public emergency shelter for the homeless and the immediately preceding 11 consecutive full calendar months. The use of any standard base such as a calendar year or a fiscal year could result in an individual being paid benefits for as many as 6 consecutive months throughout which he or she resided in a public emergency shelter for the homeless.

Using a calendar base, for example, if an eligible individual entered a public emergency shelter on the last day of September, the first full calendar month throughout which the individual was a resident of the shelter would be October. If the individual remained in the shelter until April of the following year, he or she could receive a benefit under this provision for October, November, and December (3 months of the first 12-month period) and a benefit for January, February, and March (3 months of the second 12-month period). Such a result seems contrary to section 1611(e)(1)(D) of the Act, which clearly provides that a resident of such a shelter not be paid benefits for more than 3 months in *any* 12-month period. Under the definition we have adopted, that same individual would receive benefits under this provision for October, November, and December, but would receive none for January, February or March of the following year. In determining the eligibility of the individual in this example for October, we would use the 12 months from that October through the previous November inclusive. In determining eligibility for November, we would use the 12 months from that November through the previous December inclusive and for December, we would use the 12 months from December through the previous January inclusive.

Similarly, the use of a 12-month period beginning with the first month of an individual's eligibility under this provision (with the next 12-month period beginning on the anniversary of that month) could result in an individual being paid benefits for as many as 6 consecutive months throughout which he or she resided in a public emergency shelter for the homeless.

Comments Received Following Publication of the Notice of Proposed Rulemaking

These regulations were published as proposed rules on April 18, 1984 (49 FR 15225). Interested parties were given 60 days to submit comments. We received comments from 10 sources—7 State agencies, 2 advocacy groups, and an associated charities organization. Six of the writers wrote to support the proposed rules. Another writer, although supporting the proposed rules, recommended several specific changes. Two writers were concerned that the definition of public emergency shelter for the homeless that we proposed may be restrictive to the point of disqualifying most, if not all, public shelters from consideration under these rules. Another writer requested that we clarify the relationship between the public shelter exception and the community residence exception. We have addressed these comments, as well as others that were received, below.

Comment: Two writers feel that the regulations do not address the question of eligibility for SSI benefits of persons who reside in public institutions for part of a month and a public emergency shelter for the homeless for the remainder of that month. Both writers suggested that language be added to the regulations to clarify the benefit eligibility of such persons.

Response: A person residing in a public institution (e.g., a mental hospital) is generally not eligible to receive SSI benefits for any month throughout which he or she resides in that institution (section 1611(e)(1)(A) of the Social Security Act). The law provides three exceptions (section 1611(e)(1) (B), (C), and (D)) to that restriction. One of those exceptions, the public emergency shelter for the homeless exception (section 1611(e)(1)(D)), is the subject of this publication. Section 1611(e)(1)(B), which provides that a resident of an institution which receives payments for the cost of his or her care from Medicaid may be eligible for a reduced benefit, is another exception. The remaining exception under which a resident of a public institution may receive an SSI benefit is provided by section 1611(e)(1)(C). This section permits payment of SSI benefits to residents of publicly operated community residences which serve no more than 16 residents.

A resident of an institution not excepted by section 1611(e)(1) (B) or (C) who leaves that institution and enters a public emergency shelter for the homeless that same month would, if otherwise eligible, be entitled to an SSI benefit upon entering the shelter. However, the amount of the benefit for that first month of residency in the shelter would be a prorated amount calculated from the date of the person's application for benefits or the date of eligibility, whichever is later. Proration of benefits in the initial month of eligibility is required by section 1611(c)(2) of the Social Security Act as amended by section 181 of Pub. L. 97-248. Proposed regulations implementing section 181 were published in the **Federal Register** on September 5, 1985 (50 FR 36108).

A person who leaves an institution where Medicaid is paying for a part of his or her care (and who is, therefore, receiving a reduced benefit) who enters a shelter that same month would, if otherwise eligible, be entitled to the benefit amount he or she would have received for that month had he or she not been institutionalized, less the amount of the reduced benefit already received for that month.

The benefit payments received by a resident of a publicly operated community residence which serves no more than 16 residents would be unaffected by the resident's move to a public emergency shelter for the homeless, if the person is otherwise eligible. By otherwise eligible, we mean that the person has not resided in a public emergency shelter for the homeless for 3 months within the last 12 months for which he or she received SSI benefits, and he or she meets the income and resource limitations of the law.

We have not adopted the writers' suggestions that additional language be added to the regulations to describe such situations. We believe the present pertinent regulation sections permit us to fairly process any situations likely to arise. Section 416.211 explains what we mean by "throughout a month" and discusses that exceptions to the limitation on benefits for resident of public institutions.

Comment: Two commenters are concerned that the definition of public emergency shelter for the homeless may be restrictive to the point of disqualifying most, if not all, public shelters from coverage under these regulations. They point out that most shelters are only able to provide a place to sleep and that very few are able to provide food or other services or treatment. One of the writers feels that public emergency shelters should, by definition, only be required to provide a place to sleep and, while other services may voluntarily be included, they should not be required by regulation.

Response: Facilities that do not provide some treatment or services in addition to food and shelter are not "institutions" for SSI purposes, and individuals residing in such facilities are not subject to any limitation on their SSI benefits on the basis of their residency. Only residents of public institutions, as defined in § 416.201, are ineligible for SSI benefits for months throughout which they reside in such institutions. Since the subject regulations provide an exception to the general limitation on SSI eligibility for persons in public institutions, we paralleled the definition of public emergency shelter for the homeless as closely as possible to the definition of public institution. We believe to do otherwise would be contrary to the purpose of section 1611(e)(1)(D).

Comment: One writer suggested that these regulations should clarify the relationship between the publicly operated community residence exception and the public emergency shelter for the homeless exception. Both are exceptions to the general rule that persons living in public institutions cannot be eligible for SSI benefits. The writer pointed out that some public institutions might qualify both as public operated community residences and as public emergency shelters for the homeless. A resident of a publicly operated community residence which serves no more than 16 residents may be eligible for SSI benefits throughout his or her residency regardless of how long he or she resides there, whereas a resident of a public emergency shelter for the homeless may receive SSI benefits in any 12-month period for no more than 3 months throughout which he or she resides in a shelter. The writer feels the regulations should clarify the benefit status of a resident of an institution that appears to qualify as both a publicly operated community residence and as a public emergency shelter for the homeless.

Response: We have not adopted the writer's suggestion. The public emergency shelter for the homeless exception and the publicly operated community residence exception (see § 416.211(c)) are two different and separate exceptions to the general limitation on benefits for residents of public institutions. A public emergency shelter for the homeless is a temporary arrangement whereby homeless individuals are provided with shelter, food, and some treatment or services. It is not intended to become a permanent home. A publicly operated community residence is a public institution which provides a more permanent living arrangement, generally offers more community based services than a public emergency shelter for the homeless and may serve no more than 16 individuals at a time for its residents to be SSI eligible (see § 416.211(c)). If an applicant for or a recipient of SSI benefits is in a public facility, we first check to see whether it is, by definition, an institution. If it is, we then check to determine if any of the exceptions apply. Where an institution might technically qualify both as a publicly operated community residence and as a public emergency shelter for the homeless, we would in that instance support a finding most favorable to its residents.

Comment: A writer suggested that the regulations be clarified to show that the 3 months for which a resident of a public emergency shelter for the homeless may be eligible for SSI benefits does not include months in which he or she resided in a shelter but did not receive benefits. Although an individual could be ineligible for SSI benefits for a variety of reasons, the most likely occurrence is where the individual does not file for SSI benefits until sometime after he or she has taken up residency in a shelter.

Response: We agree with the writer's concern and have added language to § 416.211(d) to show that the 3 months of eligibility does not include months during which an individual resided in a public shelter, but for which he or she did not receive SSI benefits.

Additional Changes

We clarified what we mean by a public emergency shelter for the homeless by modifying the definition (in § 416.201) to more clearly show the population that this type of institution normally serves and by describing those types of facilities that are not considered to be public emergency shelters for the homeless. We have also (in § 416.201) described what we mean by the terms "emergency shelter" and "homeless individual".

We have corrected the parenthetical reference added May 9, 1984 (49 FR 19639), under "Resident of a public institution" in § 416.201, that referred to paragraphs (b) and (c) of § 416.211 as describing exceptions to the status of resident of a public institution. They do not describe exceptions to the status of "resident". Rather, they describe exceptions to the general limitation on SSI eligibility for individuals who are residents of a public institution throughout a month. In addition, we have added a reference to the new paragraph (d) of section 416.211. This new paragraph describes the exception for residents of public emergency shelters for the homeless.

Regulatory Procedures

Executive Order 12291

These regulations have been reviewed under Executive Order 12291 and we have determined that they do not create costs of $100 million or more yearly, or otherwise meet the threshold of the Executive Order. For this reason, the Secretary has determined that the regulations are not a "major rule" under Executive Order 12291, and a regulatory impact analysis is not required.

Paperwork Reduction Act

These regulations impose no new reporting or recordkeeping requirements subject to clearance by the Office of Management and Budget.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities since they primarily affect only homeless aged, blind, or disabled individuals receiving, or applying for, SSI benefits. States which will be affected are those which supplement the Federal SSI benefit and those States where Medicaid eligibility is tied to SSI eligibility. However, a regulatory flexibility analysis as required under Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

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

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI).

Dated: August 30, 1985.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: December 10, 1985.

Margaret M. Heckler,

Secretary of Health and Human Services.

PART 416—[AMENDED]

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

1. The authority citation for Subpart B of Part 416 revised amended to read as follows:

Authority: Secs. 1102, 1110, 1602, 1611, 1614, 1616, 1618, 1619, 1631, and 1634 of the Social Security Act as amemded, secs. 211 and 212 of Pub. L. 93-66, 49 Stat. 647, 94 Stat. 474, 86 Stat. 1465, and 1474, 90 Stat. 2901, 94 Stat. 445, 86 Stat. 1478, and 87 Stat. 154 through 156 (42 U.S.C. 1302, 1310, 1381a, 1382, 1382c, 1382e, 1382g, 1382h, 1383, 1383c, and 1396); sec. 403 of Pub. L. 98-21, 97 Stat. 140.

2. Section 416.201 is amended by adding in alphabetical order four new definitions and by revising the language in, and adding an exception to, the parenthetical reference under "Resident of a public institution" as follows:

§ 416.201 General definitions and terms used in the subpart.

"Any 12-month period" means any period of 12 full calendar months ending with any full calendar month throughout which (as defined in § 416.211) an individual is residing in a public emergency shelter for the homeless (as defined in this section) and including the immediately preceding 11 consecutive full calendar months.

"Emergency shelter" means a shelter for individuals whose homelessness poses a threat to their lives or health.

"Homeless individual" is one who is not in the custody of any public institution and has no currently usable place to live. By "custody" we mean the care and control of an individual in a mandatory residency where the individual's freedom to come and go as he or she chooses is restricted. An individual in a public institution awaiting discharge and placement in the community is in the custody of that institution until discharged and is not homeless for purposes of this provision.

"Public emergency shelter for the homeless" means a public institution or that part of a public institution used as an emergency shelter by the Federal government, a State, or a political subdivision of a State, primarily for making available on a temporary basis a place to sleep, food, and some services or treatment to homeless individuals. A medical facility (as defined in § 416.201) or any holding facility, detoxification center, foster care facility, or the like that has custody of the individual is not a public emergency shelter for the homeless. Similarly, transitional living arrangements such as a halfway house that are part of an insitution's plan to facilitate the individual's adjustment to community living are not public emergency shelters for the homeless.

"Resident of a public institution" * * * (See § 416.211 (b), (c), and (d) of this subpart for exceptions to the general limitation on the eligibility for Supplemental Security Income benefits of individuals who are residents of a public institution.)

3. Section 416.211 is amended by adding a new paragraph (d) to read as follows:

§ 416.211 You are a resident of a public institution.

* * * * *

(d) *Exception for residents of public emergency shelters for the homeless.* For months after April 1983, if you are a resident of a public emergency shelter for the homeless (defined in § 416.201) you may be eligible for SSI benefits for any 3 months throughout which you reside in the shelter in any 12-month period (defined in § 416.201). The 3 months do not need to be consecutive and we will not count as part of the 3 months any prior months in which you lived in the shelter but did not receive SSI benefits.

Example: You were receiving SSI benefits when you lost your home and you entered a public emergency shelter for the homeless on June 10, 1985. You remained a resident of the shelter until October 10, 1985. Since you were not in the shelter throughout the month of June, you will be eligible to receive your benefit for June without having this month count towards the 3 month period. The last full month throughout which you resided in the shelter was September. Therefore, if you meet all eligibility requirements, you will also be paid benefits for July, August, and September (3 months during the 12-month period September 1985 back through October 1984). In determining your eligibility for July, we used the 12 months from July 1985 through the previous August 1984 inclusive. In determining your eligibility for August, we used the 12 months from August 1985 through the previous September 1984 inclusive and for September, we used the 12 months from September 1985 through the previous October 1984 inclusive. If your are otherwise eligible, you will receive your SSI benefit for October, when you left the shelter, since you were not a resident of the shelter throughout that month.

4. The authority citation for Subpart M of Part 416 is revised to read as follows:

Authority: Secs. 228, 1102, 1611 through 1615, and 1631 of the Social Security Act, as amended, 80 Stat. 647, 49 Stat. 647, as amended, 86 Stat. 1465 through 1477 (42 U.S.C. 428, 1302, 1381 through 1382d, 1383), sec. 502(a) of Pub. L. 94–241, 90 Stat. 628 and sec. 403 of Pub. L. 98–21, 97 Stat. 140.

5. Section 416.1325 is amended by designating the existing text as paragraph (a) and revising it (the example remains unchanged) and adding paragraph (b) to read as follows:

§ 416.1325 Suspension due to status as a resident of an institution.

(a) *General.* Except as provided in § 416.211 (b), (c), and (d), an individual is ineligible for benefits for the first full calendar month in which he or she is a resident of a public institution (as defined in § 416.201) throughout the calendar month, and his or her payments are suspended effective with such first full month. Such ineligibility continues for each full calendar month such individual is so institutionalized.

Example: * * *

(b) *Residents of public emergency shelters for the homeless.* A resident of a public emergency shelter for the homeless (see § 416.201) may be eligible for benefits for any 3 months throughout which he or she is a resident of the shelter in any 12-month period (see § 416.201). The 3 months do not have to be consecutive and we will not count any prior months you lived in the shelter and did not receive Supplemental Security Income benefits. An individual is ineligible and his or her payments will be suspended effective with the fourth full calendar month in which the individual resides in a shelter in any 12-month period. Such ineligibility continues for each full calendar month thereafter within the 12-month period that the individual remains a resident of the shelter.

[FR Doc. 85–29926 Filed 12–16–85; 8:45 am]

BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Pyrantel Tartrate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for J & R Specialty Supply Co. The NADA provides for the use of a 48-gram-per-pound pyrantel tartrate premix in making a 9.6-gram-per-pound pyrantel tartrate intermediate premix used to make complete swine feeds.

EFFECTIVE DATE: December 18, 1985.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1414.

SUPPLEMENTARY INFORMATION: J & R Specialty Supply Co., 10 Second Ave. SW., P.O. Box 506, Waseca, MN 56093, is the sponsor of NADA 138–609 submitted on its behalf by Pfizer, Inc. The NADA provides for use of a 48-gram-per-pound pyrantel tartrate premix in making a 9.6-gram-per-pound pyrantel tartrate intermediate premix. The intermediate premix is used for making complete swine feeds used for aid in prevention of migration and establishment, and for removal and control of large roundworm (*Ascaris suum*) infections; and for aid in prevention of establishment and for removal and control of nodular worm (*Oesophagostomum* spp.) infections. The NADA is approved and the regulations are amended to reflect this approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. In § 558.485 by adding new paragraph (a)(26) to read as follows:

§ 558.485 Pyrantel tartrate.

(a) * * *

(26) To 049768: 9.6 grams per pound, paragraph (e) (1) through (3) of this section.

* * * * *

Dated: December 10, 1985.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 85-29885 Filed 12-17-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

Approval of Amendments to the Utah Permanent Program Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: OSM is approving amendments to the Utah Permanent Regulatory Program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). On February 6, 1984, Utah submitted proposed program amendments for OSM's approval pertaining to water quality and effluent limitations, inspections, notices of violations and suspension or revocation of permits. On August 29, 1984, the Director, OSM, approved the amendments, with the exception of those provisions concerning suspension or renovation of permits (49 FR 34210–34212). On September 25, 1984, the State submitted revised regulations and position papers from the Utah Assistant Attorney General to address OSM concerns regarding the State programs provisions for the suspension or revocation of permits.

On July 31, 1985 (50 FR 30958) OSM reopened the comment period on the materials submitted by the State on September 25, 1984. The Director has determined that the regulatory provisions for the suspension and revocation of permits submitted by the State on February 6, 1984, with the regulatory revisions and clarifications submitted September 25, 1984, satisfy the criteria for approval of state program amendment set forth at 30 CFR 732.17. Therefore, the Director is approving the amendments.

This final rule is being made effective immediately in order to expedite the State program amendment process and to encourage the State to conform its program to the Federal standards without undue delay; consistency of the State and Federal standards is required by SMCRA.

EFFECTIVE DATE: December 18, 1985.

FOR FURTHER INFORMATION CONTACT: Arthur Abbs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Ave., NW., Washington, DC 20240; Telephone: (202) 343-5361.

SUPPLEMENTARY INFORMATION: On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program under SMCRA for the regulation of surface coal mining operations in the State (46 FR 5899–1915).

Information pertinent to the general background, revisions modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Utah program can be found in the January 21, 1981 **Federal Register** (46 FR 5899–5915).

On February 6, 1984, the Utah Division of Oil, Gas and Mining (DOCGM) submitted proposed program amendments for OSM's approval pertaining to water quality standards and effluent limitations, and inspection and enforcement requirements.

On April 30, 1984, OSM announced receipt of these amendments and scheduled a public hearing and comment period on the proposed modifications (49 FR 18315). The public comment period closed May 30, 1984.

On June 29, 1984, OSM advised Utah by letter that the proposed provisions satisfied the criteria for approval of State program amendments set forth under 30 CFR 732.15 and 732.17 with the exception of the proposed revisions contained in section UMC/SMC 843.13. This section pertains to the suspension or revocation of permits [See Utah Administrative Record No. 335].

OSM informed the State that it was prepared to delay its final rulemaking on the amendments for one month to allow the State an opportunity to submit draft proposed rule changes or other evidence that the State amendments were consistent with the Federal standards.

Utah did not submit to OSM any additional materials to address the deficiencies identified by OSM in the State's proposed amendments during the one month period granted for this purpose. Therefore, OSM proceeded with the publication of a final rule to announce the Director's decision on the amendments as submitted to OSM on February 6, 1984. The Director's decision was to approve the amendments, with the exception of those provisions pertaining to the suspension or revocation of permits [August 29, 1984, 49 FR 34210–34212].

Subsequently, in a letter to OSM dated September 25, 1984, the State responded to the concerns raised by OSM regarding the provisions submitted February 6, 1984, concerning suspension or revocation of permits. To address OSM's concerns the State submitted revised regulations and position papers from the Assistant Attorney General for Utah concerning the provisions for suspension or revocation of permits.

On July 31, 1985, OSM reopened the public comment period on the amendments submitted February 6, 1984, as revised and clarified by the State on September 25, 1984 (50 FR 30958). The material considered pertained only to the revisions made by Utah to its regulations at UMC/SMC 843.13.

Director's Decision

After thoroughly reviewing the amendments to UMC/SMC 843.13 submitted to OSM by the State on February 6, 1984, together with the regulatory revisions submitted on September 25, 1984, and the Attorney General's position papers submitted on that date, the Director, OSM, has determined that the State's program incorporates sanctions no less stringent than those set forth in section 521 of SMCRA and 30 CFR Part 843 and contains the same or similar requirements relating thereto.

The initial concerns which OSM raised regarding the amendments to UMC/SMC 843.13 submitted by the State on February 6, 1984, were eliminated with the State's submission of further additional regulatory revisions on September 25, 1984, and with respect to one issue, by the submission of a position paper from the State attorney general. A discussion of each of the issues raised by OSM in its June 29, 1984 letter to the State and the disposition of each issue is provided below.

UMC/SMC 843.13(a)(2)(iv) and UMC/SMC 843.13(a)(1)

In its letter to the State dated June 29, 1984, OSM indicated that the State regulations at UMC/SMC 843.13(a)(2)(iv) and UMC/SMC 843.13(a)(1) appeared to provide for both the Director, DOGM, and the Board of Oil, Gas and Mining to make a determination that a pattern of violations exists. OSM advised the State that such a two-tier system would be inconsistent with the Federal regulations at 30 CFR 843.13(a) (1) and (3).