proposed amendments to Rule 10a–1 in light of the standards set forth in section 23(a) and concludes that adoption of these amendments would not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Commission notes that the proposed amendments would exempt both exchange and OTC market participants form the short sale prohibitions that would otherwise govern transactions in NMS Designated Securities that are traded on an exchange on a listed or UTP basis. The amendments would continue in effect the differing treatment of short sales currently in place for securities that are primarily exchange traded and those that are not listed on an exchange. The Commission does not believe, however, that the narrow amendments adopted here would impose any new or different burdens on competition on competing markets or market participants. The Commission, therefore, believes that the proposed amendments would not impose any significant competitive burdens, and that the amendments are consistent with the objectives of section 11A of the Act.[28]

The Commission has prepared a Final Regulatory Flexibility Analysis ("FRFA"), pursuant to the requirements of the Regulatory Flexibility Act,[29] regarding the amendments to Rule 10a–1. The FRFA indicates that the amendments would exempt from Rule 10a–1 persons engaging in transactions in NMS Designated Securities subject to UTP or to a concurrent exchange listing. The FRFA notes that the principal effect of this exemption would be to relieve exchange specialists, OTC market makers, and other market participants from obligations governing short selling to which they otherwise would be subject. The FRFA states that, because the amendments would exempt persons from regulation, the proposal would not appear to impose significant costs upon those persons affected. The FRFA notes that no commentators specifically referred to the Initial Regulatory Flexibility Analysis in commenting on the amendments or indicated that the amendments might impose any other costs.

A copy of the FRFA may be obtained by contacting Andrew E. Feldman, Esq., (202) 272–2414, Division of Market Regulation, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

[28] *See, e.g.*, Sections 11A(1)(c)(ii) and 11A(c)(1)(F).

[29] 5 U.S.C. 601 et seq.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

VI. Statutory Basis and Text of the Amendments

Pursuant to the Securities Exchange Act of 1934 and particularly sections 10(a) and 23(a) thereof, 15 U.S.C. 78j and 78w(a), the Commission is amending § 240.10a–1 in Chapter II to Title 17 of the Code of Federal Regulations.

Text of Amendments to Rule 10a–1

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

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 continues to read as follows:

Authority: Secs. 2, 3, 6, 9, 10, 15, 17 and 23, Pub. L. 78–291, 48 Stat. 881, 882, 885, 889, 891, 895, 897 and 901, as amended by secs. 2, 3, 4, 11, 14 and 18, Pub. L. 94–29, 89 Stat. 97, 104, 121, 137 and 155 (15 U.S.C. 78b, 78c, 78f, 78i, 78j, 78o, 78q, and 78w); sec. 15A, as added by sec. 1, Pub. L. 75–719, 52 Stat. 1070, as amended by sec. 12, Pub. L. 94–29, 89 Stat. 127 (15 U.S.C. 78o–3); sec. 11A as added by sec. 7, Pub. L. 94–29, 89 Stat. 111 (15 U.S.C. 78k–1); 15 U.S.C. 78a *et seq.*, and particularly secs. 2, 3, 10(a), 10(b), 15(c), and 23(a), 15 U.S.C. 78b, 78c, 78i(a)(6), 78j(a), 78j(b), 78o(c), and 78w(a).

2. Section 240.10a–1 is amended by redesignating (a)(1) as (a)(1)(i) and change the existing internal designations to (A) and (B), and adding new (a)(1)(ii) as follows:

§ 240.10a–1 Short sales.

(a) * * *

(1) * * *

(ii) The provisions of paragraph (a)(1)(i) hereof shall not apply to transactions by any person in National Market System Securities as defined in § 240.11Aa2–1 (Rule 11Aa2–1 under the Act).

By the Commission.

John Wheeler,

Secretary.

March 6, 1986.

[FR Doc. 86–5676 Filed 3–13–86–8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 389

[Docket No. RM86–6–000]

Construction Work in Progress; Anticompetitive Implications

Issued March 10, 1986.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; notice of OMB control number.

SUMMARY: On February 27, 1986, the Federal Energy Regulatory Commission issued an interim rule in Docket No. RM86–6–000, 51 FR 7774 (March 6, 1986) establishing interim procedures to be followed concerning requests for construction work in progress in rate base. This notice states the OMB control number for § 35.26 promulgated in this docket.

EFFECTIVE DATE: March 10, 1986.

FOR FURTHER INFORMATION CONTACT: Ellen Brown, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 (202) 357–8272.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act, 44 U.S.C. 3501–3520 (1982), and the Office of Management and Budget's (OMB) Regulations, 5 CFR Part 1320 (1985), require that OMB approve certain information collection requirements imposed by agency rule. On March 5, 1986, OMB approved the information collection requirements of § 35.26 which were adopted pursuant to Order No. 448, 51 FR 7774 (March 6, 1986) and issued Control Number 19020096 for that section.

Accordingly, Part 389, Chapter I, Title 18, *Code of Federal Regulations*, is amended as set forth below.

PART 389—[AMENDED]

1. The authority citation for Part 389 continues to read as follows:

Authority: Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520 (1982).

§ 389.101 [Amended]

2. The Table of OMB Control Numbers in § 389.101(b) is amended by inserting "35.26" in numerical order in the section column and "0096" in the corresponding

position in the OMB Control Number column.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-5600 Filed 3-13-86; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Social Security Benefits and Supplemental Security Income; Payment of Travel Expenses

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: These regulations reflect sections 201(j), 1631(h) and 1817(i) of the Social Security Act (the Act) as added by section 310 of Pub. L. 96-265 which became effective June 9, 1980. That law provides permanent authority for the payment by the Secretary of certain travel expenses to (1) individuals who attend medical examinations requested by a State disability determination agency or by the Social Security Administration (SSA) in connection with disability determinations, (2) parties, their representatives, and all reasonably necessary witnesses who attend certain reconsideration interviews in connection with disability claims, and (3) parties, their representatives, and all reasonably necessary witnesses who attend hearings held before an administrative law judge (ALJ).

These regulations also reflect the series of appropriation acts for the Department of Health and Human Services (HHS) which cover the period after September 30, 1981. These laws limit payment of travel expenses in title XVI to cases where travel is more than 75 miles.

EFFECTIVE DATE: These final regulations are effective March 14, 1986, except §§ 404.999(d) and 416.1499 of these regulations which contain information collection requirements that are subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. We have submitted these requirements to OMB for approval and we will place a notice in the **Federal Register** informing the public of OMB's action. In the interim, these requirements are not effective.

FOR FURTHER INFORMATION CONTACT: Cliff Terry, Office of Regulations, 3-B-4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-7519.

SUPPLEMENTARY INFORMATION: We published these regulations as a Notice of Proposed Rulemaking (NPRM) on January 7, 1986 (51 FR 614), with a 30-day period for public comment. Comments received are discussed below.

The regulations describe the policies and procedures applicable to payment by SSA or the State disability determination agency of travel expenses to claimants, their representatives and reasonably necessary witnesses in certain proceedings. The regulations specify what we mean by "the most economical and expeditious means of transportation appropriate to such person's health condition" and "travel expenses, either on an actual cost or commuted basis." In addition, the regulations specify that travel expenses are payable for travel to undergo medical examinations requested by a State disability determination agency or SSA in connection with disability claims under title II or XVI of the Act, for attendance at title II or XVI disability hearings to reconsider determinations of cessation of disability based on medical factors, and for attendance at title II or XVI hearings on any subject held before an ALJ. Reimbursement for travel to hearings is limited to expenses for travel within the United States (U.S.).

The regulations provide that travel expenses payments made by SSA will be determined by the same rates and conditions that govern travel expenses for Federal employees as authorized by 41 CFR 101-7. The regulations also provide that travel payments made by a State agency will be determined according to the applicable State reimbursement rates and procedures. This follows our established policy under which the States determine rates of payment for medical and other services necessary to make determinations of disability, as well as travel expenses.

Who May Be Reimbursed

In §§ 404.999b and 416.1496 we specify who may be eligible for reimbursement:

(1) We explain that individuals may be reimbursed for travel expenses incurred when we or the State agency request a medical examination (consultative examination, see §§ 404.1517 and 416.917) in connection with a claim for disability benefits.

(2) Section 310 of Pub. L. 96-265 provides for payment of travel expenses for "reconsideration interviews." We interpret the statements of congressional intent in the House of Representatives Conference Report on Pub. L. 96-265 as meaning that these payments are for travel expenses for face-to-face reconsideration interviews before a decisionmaker on medical issues, in the event such a reconsideration procedure should be adopted. H.R. Rep. 944, 96th Cong., 2d Sess., 60 (1980).

Subsequently, sections 4 and 5 of Pub. L. 97-455, enacted on January 12, 1983, established a face-to-face hearing before a decisionmaker at the reconsideration level in title II cases in which the issue is cessation of the disability based on medical factors. Accordingly, we indicated in our regulations on these hearings (which we call disability hearings) that disability beneficiaries, their representatives and all reasonably necessary unsubpoenaed witnesses will be reimbursed for travel to disability hearings. Those regulations were published on January 3, 1986 (51 FR 288). These final regulations remove the provision on travel expenses from the disability hearing regulations, since it is in these regulations and would be merely repetitive.

(3) Claimants, their representatives, and all reasonably necessary unsubpoenaed witnesses may be reimbursed for travel expenses to attend hearings on any title II or XVI issue before an ALJ.

These regulations do not apply to subpoenaed witnesses in either kind of hearing. They are paid the same fees and allowances they would receive if they had been subpoenaed by a Federal district court (§§ 404.916(b)(1), 404.950(d), 416.1416(b)(1), and 416.1450(d)).

Travel Distance

Prior to the enactment of section 310 of Pub. L. 96-265, we limited payment of the claimant's, representative's, or unsubpoenaed witness's travel expenses for title II and title XVI hearings to cases where the distance from the person's residence or office (whichever he or she travels from) to the hearing site was more than 75 miles. This remains our policy for travel expenses for both disability hearings and ALJ hearings. (There is no 75-mile requirement for reimbursement for travel for medical examinations.)

The intent of this policy is to reconcile, as best as possible, the conflicting goals of preventing more than minimal financial hardship to claimants in exercising their appeal rights and of conserving available funds. It is also to avoid handling reimbursement claims that are small in

comparison to the cost to us of handling them.

The original authority for reimbursing travel expenses was provided each year in the appropriation act for HHS. Upon enactment of section 310 of Pub. L. 96–265 which added sections 201(j), 1631(h), and 1817(i) to the Act, we received permanent authority for payment of these travel expenses.

This law, by itself, provides that in title XVI cases, the Secretary shall pay for travel expenses regardless of the distance traveled. However, the law still gives the Secretary discretionary authority with respect to payment of title II travel costs.

From June 9, 1980 (the effective date of Pub. L. 96–265) to September 30, 1981, our policy was to pay title XVI travel expenses without a distance limitation as directed by this permanent authority. Then, however, Congress limited the requirement in Pub. L. 96–265 by specifying, in a series of appropriation acts effective after September 30, 1981, that travel in title XVI cases must be more than 75 miles before reimbursement can be made.

Our policy, therefore, has been to apply the 75-mile limit in title XVI cases for the time periods specified in these appropriation acts.

The Committee on Ways and Means of the House of Representatives has urged SSA to "re-examine the current requirement that a beneficiary must travel at least 75 miles in order to qualify for travel reimbursement as this standard may be inappropriate in many locations in this country." H.R. Rep. 618, 98th Cong. 2d Sess. 19 (1984). We have examined the policy and continue to believe the requirement is appropriate. Moreover, we are required by the current appropriation act for HHS to continue to apply it in title XVI cases.

In title II cases, on the other hand, since section 201(j) authorizes but does not mandate payment of travel expenses, such payment and any limitation on it is a matter of policy. We think it would be clearly inappropriate to apply a more liberal reimbursement rule in title II cases, in which there is less reason to presume the financial need that can be presumed in title XVI cases.

What Travel Expenses Are Reimbursable

Reimbursement may be made for ordinary as well as unusual costs of travel. In §§ 404.999c and 416.1498, we explain what constitutes ordinary travel expenses and what constitutes unusual travel expenses. We also list the order in which the available modes of transportation will be considered in determining the most economical and expeditious means appropriate to the person's condition of health. These sections also explain (1) when first-class air travel is permitted, (2) that reimbursement rates may vary not only for different modes of transportation, but also depending upon whether we or the State agency makes reimbursement, and (3) what is meant by the individual's condition of health.

If a change in the location of a disability or ALJ hearing is made at the claimant's request from the location SSA or the State agency selected to one farther from the claimant's residence, any additional travel expenses will not be reimbursed. This is because the claimant has had the opportunity to incur lower travel expenses and has chosen the different site presumably for his or her own convenience.

The regulations (§§ 404.903 and 416.1403) also explain that determinations of payment (and amount) or nonpayment of travel expenses incurred are not initial determinations. Therefore, these determinations are not subject to the administrative review process and they are not subject to judicial review.

When and How To Claim Reimbursement

Usually reimbursement is made, upon the traveler's request, by the State agency or by us after the trip. Sections 404.999d and 416.1499 explain the circumstances under which advance payments may be made.

Public Comments

We received 10 letters of comments on the NPRM. The letters generally contained very similar comments, and in summarizing the comments below we combine closely related comments and then give our response.

Comment: Do these regulations apply to travel to ALJ hearings by ALJs, medical advisors, and vocational experts?

Response: No. ALJs are HHS employees, and medical advisors and vocational experts are professionals under contract with SSA to provide expert testimony. They are reimbursed for their travel to hearings under separate existing rules.

Comment: The regulations should provide for notice to claimants (either not later than a month before their travel or when they receive notice of their hearing) of the right to travel reimbursement, the right to advance payment and how to request it, the rules on means of travel and unusual travel costs, and the need to submit receipts. The rules on unusual travel costs should be spelled out so claimants can tell when they would be reimbursable and how much, in the case of meal and lodging costs.

Response: We or the State agency will give every claimant scheduled for a consultative examination, disability hearing, or ALJ hearing information about the right to travel reimbursement, the right to advance payment and how to request it, the rules on means of travel and unusual travel costs, and the need to submit receipts. We have revised the regulations to say so. Claimants will receive the information no later than when they are notified of the examination or hearing.

We will also tell the claimant in the notice we send to call us or the State agency right away if the claimant needs advance payment or more information about what is reimbursable. This gives us or the State agency the opportunity to give each claimant exactly the information he or she needs.

Comment: The regulations should state how long before the trip we will notify the claimant about the availability of advance payment for travel, how long before the trip the claimant must request advance payment in order to get it, and how long we may take after the request to make the advance payment. If a claimant who needs an advance payment in order to travel does not learn of its availability early enough or does not know how early he or she needs to request it, the examination or hearing may have to be postponed until the advance can be paid.

Response: We agree it is important for the claimant to have sufficient notice of the availability of advance payment and to know how early he or she needs to request it, but we do not agree that the three suggested time periods should be stated in the regulation, since conditions and circumstances may change over time. Thus, we think the best way to make sure the claimant and we or the State agency both have enough time is to provide administrative flexibility, so that we or the State agency has sufficient time to process the request with due regard for the time the claimant needs in order to ensure attendance at the examination or hearing.

As mentioned above, the notice sent to the claimant will tell the claimant to call us or the State agency right away if an advance payment is needed. If warranted, of course, rescheduling the examination or hearing is permitted under existing regulations if the claimant needs advance payment and it

cannot be provided before the examination or hearing.

Comment: The regulations and the information we give claimants discourage requests for advance payment; they should not, because many claimants cannot afford to make the trip without advance payment.

Response: We have reviewed and revised the regulations to make sure they do not discourage requests for advance payment, and will do the same to our notices to claimants.

Comment: The regulations make it appear that travel by privately owned vehicle (POV) (instead of common carrier) without prior approval could result in denial of any reimbursement at all, and that approval of use of a POV is unlikely. The regulations should be much more liberal or flexible about travel by POV, and should not require prior approval for it, particularly since the regulations say reimbursement for POV travel is limited, in any case, to the cost of the most economical public transportation for the same trip. Specifically, we should make common carriers and POV's equal in the priority listing.

The commenters describe several circumstances in which they believe use of a POV is appropriate. The claimant's physical condition may make use of a common carrier difficult or painful. Common carrier transportation for the trip required may simply be unavailable, may be very roundabout in route, or may be scheduled so infrequently as to compel an overnight stay before the traveler's round trip is completed. Travel by two or more persons (such as claimant, representative, and/or witness) in one POV may well cost less than common carrier.

Response: We have revised the regulations to clarify that—

(a) All of the circumstances identified by the commenters are taken into consideration when we or the State agency determines whether travel by POV is appropriate;

(b) For POV versus common carrier, the listing means only that we or the State agency assumes that common carrier transportation is appropriate until there is some indication otherwise;

(c) When use of a POV is appropriate, advance approval is not required;

(d) When use of a POV is appropriate, reimbursement is not limited to the cost of public transportation; and

(e) When use of a POV is not appropriate, reimbursement is limited to the cost of public transportation; the limit is the total cost of public transportation for however many authorized travelers traveled in the same POV.

Comment: The regulations should provide for reimbursement for use of a taxicab in some circumstances even though the use was neither authorized in advance nor unexpected. For example, a local bus to or from a bus or train depot may be unavailable.

Response: We have revised the regulations to provide for reimbursement of taxicab use (and other unusual travel costs not authorized in advance) if the cost is "unexpected or unavoidable." For a taxicab, what we mean by "unavoidable" would generally be limited to a short ride within a city or town, such as the example in the comment.

Comment: The regulations should provide for reimbursement (as an unusual travel cost, meaning normally subject to prior approval) of a fee the traveler may have to pay someone to drive the traveler to the examination or hearing. For example, common carrier transportation may be unavailable, but the traveler may not own a car or may be unable to drive it, and there may be no family member or friend available to drive the traveler. Paying a driver would cost less than a taxicab or ambulance.

Response: When warranted, reimbursement for a driver's fee would be permissible under the provision for the services of an attendant as an unusual travel cost.

Comment: The requirement to submit receipts for the travel costs for which reimbursement is sought should be waived liberally, because carriers often do not provide receipts. For example, we or the State agency could reimburse at the common carrier rate if the traveler provides no receipt for the more expensive means of travel that was used.

Response: We have not changed the regulations in this regard, because it is important to be able to insist on evidence whenever it seems warranted. However, we or the State agency will enforce the receipt requirement with some flexibility in light of such things as the reasonableness of the amounts claimed and the difficulty of getting receipts.

Comment: The 20 days we allow the traveler (to whom we made an advance payment) for giving us receipts and a list of itemized costs and then for repaying any excess over the approved actual expenses, should be a minimum; that is, the regulations should require State agencies to allow at least 20 days. Otherwise, State agencies may impose unreasonably short time limits.

Response: We believe administrative efficiency for State agencies warrants allowing them, as far as is reasonably practicable, to use the same administrative practices in functions they carry out for us as they use in their other functions. We do not believe that States will impose unreasonably short time limits on their citizens.

Comment: We should reconsider the rule that travel to a hearing is reimbursable only if the one-way distance exceeds 75 miles. The rule imposes hardships on many claimants. We should conduct a study of the cost of modifying the rule. We should ask Congress to omit the distance requirement from our future appropriations acts or to shorten the distance required; if Congress does so, we should change our policy accordingly.

We should interpret the requirement of "travel of more than seventy-five miles" in our current appropriations act as meaning a round trip of 75 miles, or 37½ miles one-way.

Response: The discussion headed "Travel Distance" in the NPRM and repeated earlier in this preamble gives our reasons for believing the 75-mile minimum is appropriate. We estimate the annual cost of eliminating the requirement as approximately $9 million.

The 75-mile minimum as 75 miles one-way has been our policy in title II cases since 1966. When Congress mandated the 75-mile minimum in title XVI cases in each of our appropriations acts effective after September 30, 1981, we believe Congress endorsed the policy as we had been applying it in title II cases for the previous 15 years.

Comment: The regulations should require State agencies to reimburse travel costs at the same rates we use, because there is no assurance that the State rates will be adequate and equitable and because we reimburse the State agencies for what they spend on our behalf.

Response: It has been our consistent policy for many years, reflected in regulations §§ 404.1624 and 416.1024, that "The State will determine the rates of payment to be used for purchasing medical or other services necessary to make determinations of disability." This policy helps to avoid discrepancies in State payment practices which might cause disruptions in other State operations. We do not believe it is necessary to make an exception for travel reimbursement.

Comment: The regulations should provide some mechanism for appeal of a denial of advance payment, a denial of reimbursement, or the amount of reimbursement. These decisions are important to claimants. An appeals

mechanism would assure some consistency in the decisions.

Response: We agree that these decisions are important to claimants, but we do not believe an appeals mechanism is warranted. The cases are too few and usually too small to warrant the administrative expense.

Other Changes

The only changes we have made from the NPRM that are not mentioned above are a few minor clarifications.

Effect on Medicare

These rules on travel reimbursement, like Subpart J of Part 404 generally, also apply to persons claiming certain benefits under title XVIII of the Act (Medicare), as provided by 42 CFR 405.701(c). We are adding a reminder of that fact to § 404.900(a). This regulation does not apply to provider reimbursement determinations and appeals procedures.

Executive Order 12291

These regulations do not meet any of the criteria for a major regulation as defined in Executive Order 12291. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

Sections 404.999(d) and 416.1499 of these regulations contain information collection requirements that are subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. We have submitted these requirements to OMB for approval and we will place a notice in the **Federal Register** informing the public of OMB's action. In the interim, these requirements are not effective.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities. The regulations apply directly only to individuals. Any indirect impact on small entities that provide transportation services will be too small and diffuse to be significant. Therefore, a regulatory flexibility analysis as required in Pub. L. 96–354, the Regulatory Flexibility Act of 1980, is not necessary.

(Catalog of Federal Domestic Assistance Program Nos. 13.802—Social Security Disability Insurance; 13.803—Social Security Retirement Insurance; 13.805—Social Security Survivors' Insurance; 13.807—Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-age, survivors and disability insurance.

20 CFR Part 416

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

Dated: February 27, 1986.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: March 6, 1986.

Otis R. Bowen,

Secretary of Health and Human Services.

Part 404 and Part 416 of Chapter III of Title 20 of the Code of Federal Regulations are amended as follows:

PART 404—[AMENDED]

1. The authority citation for Part 404, Subpart J is revised to read as follows:

Authority: Secs. 201, 205, and 1102 of the Social Security Act, sec. 5 of Reorganization Plan No. 1 of 1953, 53 Stat. 1368, 49 Stat. 647 (42 U.S.C. 401, 405, and 1302), unless otherwise noted.

2. Section 404.900 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 404.900 Introduction.

(a) *Explanation of the administrative review process.* This subpart explains the procedures we follow in determining your rights under title II of the Social Security Act. The regulations describe the process of administrative review and explain your right to judicial review after you have taken all the necessary administrative steps. These procedures apply also to persons claiming certain benefits under title XVIII of the Act (Medicare); see 42 CFR 405.701(c). The administrative review process consists of several steps, which usually must be requested within certain time periods and in the following order:

* * * * *

3. Section 404.903 is amended by adding a new paragraph (n) to read as follows:

§ 404.903 Administrative actions that are not initial determinations.

* * * * *

(n) Determining whether (and the amount of) travel expenses incurred are reimbursable in connection with proceedings before us.

§ 404.914 [Amended]

4. Section 404.914(c)(1) is amended by removing the last three sentences and adding in their place a new sentence to read as follows: "(See §§ 404.999a–404.999d regarding reimbursement for travel expenses.)"

5. An undesignated center heading and new §§ 404.999a through 404.999d are added to Subpart J of Part 404 to read as follows:

Payment of Certain Travel Expenses

§ 404.999a Payment of certain travel expenses—general.

When you file a claim for Social Security benefits, you may incur certain travel expenses in pursuing your claim. Sections 404.999b–404.999d explain who may be reimbursed for travel expenses, the types of travel expenses that are reimbursable, and when and how to claim reimbursement. Generally, the agency that requests you to travel will be the agency that reimburses you. No later than when it notifies you of the examination or hearing described in § 404.999b(a), that agency will give you information about the right to travel reimbursement, the right to advance payment and how to request it, the rules on means of travel and unusual travel costs, and the need to submit receipts.

§ 404.999b Who may be reimbursed.

(a) The following individuals may be reimbursed for certain travel expenses—

(1) You, when you attend medical examinations upon request in connection with disability determinations; these are medical examinations requested by the State agency or by us when additional medical evidence is necessary to make a disability determination (also referred to as consultative examinations, see § 404.1517);

(2) You, your representative (see § 404.1705 (a) and (b)), and all unsubpoenaed witnesses we or the State agency determines to be reasonably necessary who attend disability hearings; and

(3) You, your representative, and all unsubpoenaed witnesses we determine to be reasonably necessary who attend hearings on any claim for benefits before an administrative law judge.

(b) Sections 404.999a–404.999d do not apply to subpoenaed witnesses. They are reimbursed under §§ 404.950(d) and 404.916(b)(1).

§ 404.999c What travel expenses are reimbursable.

Reimbursable travel expenses include the ordinary expenses of public or private transportation as well as unusual costs due to special circumstances.

(a) Reimbursement for ordinary travel expenses is limited—

(1) To the cost of travel by the most economical and expeditious means of transportation available and appropriate to the individual's condition of health as determined by the State agency or by us, considering the available means in the following order—

(i) Common carrier (air, rail, or bus);

(ii) Privately owned vehicles;

(iii) Commercially rented vehicles and other special conveyances;

(2) If air travel is necessary, to the coach fare for air travel between the specified travel points involved unless first-class air travel is authorized in advance by the State agency or by the Secretary in instances when—

(i) Space is not available in less-than-first-class accommodations on any scheduled flights in time to accomplish the purpose of the travel;

(ii) First-class accommodations are necessary because you, your representative, or reasonably necessary witness is so handicapped or otherwise impaired that other accommodations are not practical and the impairment is substantiated by competent medical authority;

(iii) Less-than-first-class accommodations on foreign carriers do not provide adequate sanitation or health standards; or

(iv) The use of first-class accommodations would result in an overall savings to the government based on economic considerations, such as the avoidance of additional subsistence costs that would be incurred while awaiting availability of less-than-first-class accommodations.

(b) Unusual travel costs may be reimbursed but must be authorized in advance and in writing by us or the appropriate State official, as applicable, unless they are unexpected or unavoidable; we or the State agency must determine their reasonableness and necessity and must approve them before payment can be made. Unusual expenses that may be covered in connection with travel include, but are not limited to—

(1) Ambulance services;

(2) Attendant services;

(3) Meals;

(4) Lodging; and

(5) Taxicabs.

(c) If we reimburse you for travel, we apply the rules in §§ 404.999b through 404.999d and the same rates and conditions of payment that govern travel expenses for Federal employees as authorized under 41 CFR 101–7. If a State agency reimburses you, the reimbursement rates shall be determined by the rules in §§ 404.999b through 404.999d and that agency's rules and regulations may differ from one agency to another and also may differ from the Federal reimbursement rates.

(1) When public transportation is used, reimbursement will be made for the actual costs incurred, subject to the restrictions in paragraph (a)(2) of this section on reimbursement for first-class air travel.

(2) When travel is by a privately owned vehicle, reimbursement will be made at the current Federal or State mileage rate specified for that geographic location plus the actual costs of tolls and parking, if travel by a privately owned vehicle is determined appropriate under paragraph (a)(1) of this section. Otherwise, the amount of reimbursement for travel by privately owned vehicle cannot exceed the total cost of the most economical public transportation available for travel between the same two points. "Total cost" includes the cost for all the authorized travelers who travel in the same privately owned vehicle. Advance approval of travel by privately owned vehicle is not required (but could give you assurance of its approval).

(3) Sometimes your health condition dictates a mode of transportation different from the most economical and expeditious. In order for your health to require a mode of transportation other than common carrier or passenger car, you must be so handicapped or otherwise impaired as to require special transportation arrangements and the conditions must be substantiated by competent medical authority.

(d) For travel to a hearing—

(1) Reimbursement is limited to travel within the U.S. For this purpose, the U.S. includes the U.S. as defined in § 404.2(c)(6) and the Northern Mariana Islands.

(2) We or the State agency will reimburse you, your representative, or an unsubpoenaed witness only if the distance from the person's residence or office (whichever he or she travels from) to the hearing site exceeds 75 miles.

(3) If a change in the location of the hearing is made at your request from the location we or the State agency selected to one farther from your residence or office, neither your additional travel expenses nor the additional travel expenses of your representative and witnesses will be reimbursed.

§ 404.999d When and how to claim reimbursement.

(a)(1) Generally, you will be reimbursed for your expenses after your trip. However, travel advances may be authorized if you request prepayment and show that the requested advance is reasonable and necessary.

(2) You must submit to us or the State agency, as appropriate, an itemized list of what you spent and supporting receipts to be reimbursed.

(3) Arrangements for special means of transportation and related unusual costs may be made only if we or the State agency authorizes the costs in writing in advance of travel, unless the costs are unexpected or unavoidable. If they are unexpected or unavoidable we or the State agency must determine their reasonableness and necessity and must approve them before payment may be made.

(4) If you receive prepayment, you must, within 20 days after your trip, provide to us or the State agency, as appropriate, an itemized list of your actual travel costs and submit supporting receipts. We or the State agency will require you to pay back any balance of the advanced amount that exceeds any approved travel expenses within 20 days after you are notified of the amount of that balance. (State agencies may have their own time limits in place of the 20-day periods in the preceding two sentences.)

(b) You may claim reimbursable travel expenses incurred by your representative for which you have been billed by your representative, except that if your representative makes a claim for them to us or the State, he or she will be reimbursed directly.

(Information collection requirements in paragraph (b) approved by OMB under control number 0960——

PART 416—[AMENDED]

6. The authority citation for Part 416, Subpart N is revised to read as follows:

Authority: Secs. 1102, 1631, and 1633 of the Social Security Act, 49 Stat. 647, 86 Stat. 1475, 86 Stat. 1478 (42 U.S.C. 1302, 1383, and 1383b).

7. Section 416.1403 is amended by adding a new paragraph (a)(9) to read as follows:

§ 416.1403 Administrative actions that are not initial determinations.

(a) * * *

(9) Determining whether (and the amount of) travel expenses incurred are reimbursable in connection with proceedings before us.

* * * * *

§ 416.1414 [Amended]

8. Section 416.1414 (c)(1) is amended by removing the last three sentences and adding in their place a new sentence to read as follows: "(See

§§ 416.1495–416.1499 regarding reimbursement for travel expenses.)"

9. An undesignated center heading and new §§ 416.1495 through 416.1499 are added to subpart N of Part 416 to read as follows:

Payment of Certain Travel Expenses

§ 416.1495 Payment of certain travel expenses—general.

When you file a claim for supplemental security income (SSI) benefits, you may incur certain travel expenses in pursuing your claim. Sections 416.1496 through 416.1499 explain who may be reimbursed for travel expenses, the types of travel expenses that are reimbursable, and when and how to claim reimbursement. Generally, the agency that requests you to travel will be the agency that reimburses you. No later than when it notifies you of the examination or hearing described in § 416.1496(a), that agency will give you information about the right to travel reimbursement, the right to advance payment and how to request it, the rules on means of travel and unusual travel costs, and the need to submit receipts.

§ 416.1496 Who may be reimbursed.

(a) The following individuals may be reimbursed for certain travel expenses—

(1) You, when you attend medical examinations upon request in connection with disability determinations; these are medical examinations requested by the State agency or by us when additional medical evidence is necessary to make a disability determination (also referred to as consultative examinations, see § 416.917);

(2) You, your representative (see § 416.1505 (a) and (b)), and all unsubpoenaed witnesses we or the State agency determines to be reasonably necessary who attend disability hearings; and

(3) You, your representative, and all unsubpoenaed witnesses we determine to be reasonably necessary who attend hearings on any claim for SSI benefits before an administrative law judge.

(b) Sections 416.1495 through 416.1499 do not apply to subpoenaed witnesses. They are reimbursed under §§ 416.1450(d) and 416.1416(b)(1).

§ 416.1498 What travel expenses are reimbursable.

Reimbursable travel expenses include the ordinary expenses of public or private transportation as well as unusual costs due to special circumstances.

(a) Reimbursement for ordinary travel expenses is limited—

(1) To the cost of travel by the most economical and expeditious means of transportation available and appropriate to the individual's condition of health as determined by the State agency or by us, considering the available means in the following order—

(i) Common carrier (air, rail, or bus);

(ii) Privately owned vehicles;

(iii) Commercially rented vehicles and other special conveyances;

(2) If air travel is necessary, to the coach fare for air travel between the specified travel points involved unless first-class air travel is authorized in advance by the State agency or by the Secretary in instances when—

(i) Space is not available in less-than-first-class accommodations on any scheduled flights in time to accomplish the purpose of the travel;

(ii) First-class accommodations are necessary because you, your representative, or reasonably necessary witness is so handicapped or otherwise impaired that other accommodations are not practical and the impairment is substantiated by competent medical authority;

(iii) Less-than-first-class accommodations on foreign carriers do not provide adequate sanitation or health standards; or

(vi) The use of first-class accommodations would result in an overall savings to the government based on economic considerations, such as the avoidance of additional subsistence costs that would be incurred while awaiting availability of less-than-first-class accommodations.

(b) Unusual travel costs may be reimbursed but must be authorized in advance and in writing by us or the appropriate State official, as applicable, unless they are unexpected or unavoidable; we or the State agency must determine their reasonableness and necessity and must approve them before payment can be made. Unusual expenses that may be covered in connection with travel include, but are not limited to—

(1) Ambulance services;

(2) Attendant services;

(3) Meals;

(4) Lodging; and

(5) Taxicabs.

(c) If we reimburse you for travel, we apply the rules in §§ 416.1496 through 416.1499 and the same rates and conditions of payment that govern travel expenses for Federal employees as authorized under 41 CFR 101–7. If a State agency reimburses you, the reimbursement rates shall be determined by the rules in §§ 416.1496 through 416.1499 and that agency's rules and regulations and may differ from one agency to another and also may differ from the Federal reimbursement rates.

(1) When public transportation is used, reimbursement will be made for the actual costs incurred, subject to the restrictions in paragraph (a)(2) of this section on reimbursement for first-class air travel.

(2) When travel is by a privately owned vehicle, reimbursement will be made at the current Federal or State mileage rate specified for that geographic location plus the actual costs of tolls and parking, if travel by a privately owned vehicle is determined appropriate under paragraph (a)(1) of this section. Otherwise, the amount of reimbursement for travel by privately owned vehicle cannot exceed the total cost of the most economical public transportation for travel between the same two points. "Total cost" includes the cost for all the authorized travelers who travel in the same privately owned vehicle. Advance approval of travel by privately owned vehicle is not required (but could give you assurance of its approval).

(3) Sometimes your health condition dictates a mode of transportation different from most economical and expeditious. In order for your health to require a mode of transportation other than common carrier or passenger car, you must be so handicapped or otherwise impaired as to require special transportation arrangements and the condition must be substantiated by competent medical authority.

(d) For travel to a hearing—

(1) Reimbursement is limited to travel within the U.S. For this purpose, the U.S. includes the U.S. as defined in § 416.120(c)(10).

(2) When the travel is performed after September 30, 1981, we or the State agency will reimburse you, your representative, or an unsubpoenaed witness only if the distance from the person's residence or office (whichever he or she travels from) to the hearing site exceeds 75 miles.

(3) If a change in the location of the hearing is made at your request from the location we or the State agency selected to one farther from your residence or office, neither your additional travel expenses nor the additional travel expenses of your representative and witnesses will be reimbursed.

§ 416.1499 When and how to claim reimbursement.

(a)(1) Generally, you will be reimbursed for your expenses after your trip. However, travel advances may be authorized if you request prepayment

and show that the requested advance is reasonable and necessary.

(2) You must submit to us or the State agency, as appropriate, an itemized list of what you spent and supporting receipts to be reimbursed.

(3) Arrangements for special means of transportation and related unusual costs may be made only if we or the State agency authorizes the costs in writing in advance of travel, unless the costs are unexpected or unavoidable. If they are unexpected or unavoidable we or the State agency must determine their reasonableness and necessity and must approve them before payment may be made.

(4) If you receive prepayment, you must, within 20 days after your trip, provide to us or the State agency, as appropriate, an itemized list of your actual travel costs and submit supporting receipts. We or the State agency will require you to pay back any balance of the advanced amount that exceeds any approved travel expenses within 20 days after you are notified of the amount of that balance. (State agencies may have their own time limits in place of the 20-day periods in the preceding two sentences.)

(b) You may claim reimbursable travel expenses incurred by your representative for which you have been billed by your representative, except that if your representative makes a claim for them to us or the State, he or she will be reimbursed directly.

(Information collection requirements in paragraph (b) approved by OMB under control number 0960———)

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Food and Drug Administration

21 CFR Part 558

Antibiotic, Nitrofuran, and Sulfonamide Drugs in the Feed of Animals; Republication of Regulation

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revising the animal drug regulation concerning antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals (21 CFR 558.15) to correct typographical errors, update certain information contained in the regulation, and provide a more readable format. The changes are nonsubstantive.

EFFECTIVE DATE: April 14, 1986.

FOR FURTHER INFORMATION CONTACT: Robert S. Brigham, Center for Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: FDA established 21 CFR 558.15 by publication in the **Federal Register** of February 25, 1976 (41 FR 8282). To clarify the tables in paragraph (g), FDA republished that portion in the **Federal Register** of March 11, 1977 (42 FR 13549). In this document, FDA is revising 21 CFR 558.15 to correct certain erroneous entries, to reflect the current names of several drug sponsors, to reflect changes in sponsorship, to update certain FDA office designations, and to further clarify the tables. The specific changes are as follows:

1. "Bureau of Veterinary Medicine" is replaced by "Center for Veterinary Medicine" and the proper designation of the office to which reports were required to be sent is inserted.

2. The correct names for several new animal drug application (NADA) sponsors are inserted. The regulation substitutes "Solvay Veterinary Inc." for "E. R. Squibb & Sons, Inc.," "Purina Mills, Inc." for "Ralston Purina," "CEVA Laboratories, Inc." for "Abbott Laboratories," "Hoechst-Roussel Agri-Vet Co." for "American Hoechst Corp," and "VPO, Inc.," for "Vitamin Premixers of Omaha."

3. "Pfizer, Inc., oxytetracycline, sheep * * *" replaces "Pfizer, Inc., penicillin, sheep * * *" to correct an error in paragraph (g)(1).

4. For Pfizer's oxytetracycline/neomycin milk replacer for calves at the higher dose of 40 to 200 and 200 to 400 milligrams per gallon, the indications for use should read "an aid in the treatment of bacterial diarrhea (scours)." This corrects the error in paragraph (g)(2) indicating the "prevention" claim for both lower and higher dose levels.

5. The format in paragraph (g)(2) has been simplified.

6. Several typographical errors have been eliminated in the tables.

The changes are editorial in nature and do not provide substantive revisions to the section. The changes do not in any way alter the status of any of the listed drugs.

Because this revision of 21 CFR 558.15 does not result in any substantive changes in the regulation, the Commissioner of Food and Drugs finds good cause that notice and public comment under the provisions of 5 U.S.C. 553 are unnecessary. The effective date of the revised regulation will be 30 days after the date of publication.

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 to read 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. Section 558.15 is revised to read as follows:

§ 558.15 Antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals.

(a) The Commissioner of Food and Drugs will propose to revoke currently approved subtherapeutic (increased rate of gain, disease prevention, etc.) uses in animal feed of antibiotic and sulfonamide drugs whether granted by approval of new animal drug applications, master files and/or antibiotic or food additive regulations, by no later than April 20, 1975, or the nitrofuran drugs by no later than September 5, 1975, unless data are submitted which resolve conclusively the issues concerning their safety to man and animals and their effectiveness under specific criteria established by the Food and Drug Administration based on the guidelines included in the report of the FDA task force on the use of antibiotics in animal feeds. All persons or firms previously marketing identical, related, or similar products except the nitrofuran drugs not the subject of an approved new animal drug application must submit a new animal drug application by July 19, 1973, or by December 4, 1973, in the case of nitrofuran drugs, if marketing is to continue during the interim. New animal drug entities with antibacterial activity not previously marketed, now pending approval or submitted for approval prior to, on, or following the effective date of this publication, shall satisfy such criteria prior to approval.

(b) Any person interested in developing data which will support retaining approval for such uses of such antibiotic, nitrofuran, and sulfonamide drugs pursuant to section 512(l) of the Federal Food, Drug, and Cosmetic Act shall submit to the Commissioner the following:

(1) By July 19, 1973, records and reports of completed, ongoing, or planned studies, including protocols, on the tetracyclines, streptomycin, dihydrostreptomycin, penicillin, and the sulfonamides; for all other antibiotics by