cooperative agreement with the United States Department of Agriculture.

Veterinarian in Charge. The veterinary offical of Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, who is assigned by the Deputy Administrator to supervise and perform the animal health activities of the Animal and Plant Health Inspection Service in the State concerned.

Veterinary Services representative. An individual employed by Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, who is authorized to perform the function involved.

(b) *Interstate movement.* No reactor may be moved interstate unless the reactor is officially identified, is accompanied by a certificate, and meets the conditions of either paragraph (b)(1), (b)(2), or (b)(3) of this section:

(1) The reactor is moved interstate for immediate slaughter, either to a Federally inspected slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or to a State-inspected slaughtering establishment that has inspection by a State representative at time of slaughter; or

(2) The reactor is moved interstate to a diagnostic or research facility after the individual issuing the certificate has consulted with the State animal health official in the State of destination and has determined that the reactor to be moved interstate will be maintained in isolation sufficient to prevent the transmission of equine infectious anemia to other horses, asses, ponies, mules, or zebras, and will remain quarantined under State authority at the diagnostic or research facility until natural death, slaughter, or until disposed of by euthanasia; or

(3) The reactor is moved interstate to its home farm after the individual issuing the certificate has consulted with the State animal health official in the State of destination and has determined that the reactor to be moved interstate will be maintained in isolation sufficient to prevent the transmission of equine infectious anemia to other horses, asses, ponies, mules, or zebras, and will remain quarantined under State authority on the reactor's home farm until natural death, slaughter, or until disposed of by euthanasia.

(c) *Approval of laboratories and diagnostic or research facilities.* (1) The Deputy Administrator will approve laboratories to conduct the official test only after consulting with the State animal health official in the State in which the laboratory is located and after determining that the laboratory: (i) Has technical personnel assigned to conduct the official test who have received training prescribed by the National Veterinary Services Laboratories; (ii) uses United States Department of Agriculture licensed antigen; (iii) follows standard test protocol prescribed by the National Veterinary Services Laboratories; (iv) meets check test proficiency requirements prescribed by the National Veterinary Services Laboratories; and (v) reports all official test results to the State animal health official and the Veterinarian in Charge.[2]

(2) The Deputy Administrator will approve diagnostic or research facilities to which reactors may be moved interstate under paragraph (b)(2) of this section, after a determination by the Deputy Administrator that the facility has facilities and employs procedures which are adequate to prevent the transmission of equine infectious anemia from reactors to other equine animals.[3]

(d) *Denial and withdrawal of approval of laboratories and diagnostic or research facilities.* The Deputy Administrator may deny or withdraw approval of any laboratory to conduct the official test, or of any diagnostic or research facility to receive reactors moved interstate, upon a determination that the laboratory or diagnostic or research facility does not meet the criteria for approval under paragraph (c) of this section.

(1) In the case of a denial, the operator of the laboratory or facility will be informed of the reasons for denial and, upon request, shall be afforded an opportunity for a hearing with respect to the merits or validity of such action in accordance with rules of practice which shall be adopted for the proceeding.

(2) In the case of withdrawal, before such action is taken, the operator of the laboratory or facility will be informed of the reasons for the proposed withdrawal and, upon request, shall be afforded an opportunity for a hearing with respect to the merits or validity of such action in accordance with rules of practice which shall be adopted for the proceeding. However, withdrawal shall become effective pending final determination in the proceeding when the Deputy Administrator determines that such action is necessary to protect the public health, interest, or safety. Such withdrawal shall be effective upon oral or written notification, whichever is earlier, to the operator of the laboratory or facility. In the event of oral notification, written confirmation shall be given as promptly as circumstances allow. This withdrawal shall continue in effect pending the completion of the proceeding, and any judicial review thereof, unless otherwise ordered by the Deputy Administrator.

(3) Approval for a laboratory to conduct the official test will be automatically withdrawn by the Deputy Administrator when the operator of the approved laboratory notifies the National Veterinary Services Laboratories in Ames, Iowa, in writing, that the laboratory no longer conducts the official test.

(4) Approval for a diagnostic or research facility to receive reactors moved interstate will be automatically withdrawn by the Deputy Administrator when the operator of the approved diagnostic or research facility notifies the Deputy Administrator, in writing, that the diagnostic or research facility no longer receives reactors moved interstate.

Done at Washington, DC, this 8th day of April 1986.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86-8222 Filed 4-11-86; 8:45 am]

BILLING CODE 3410-34-M

[2] Training requirements, standard test protocols, and check test proficiency requirements prescribed by the National Veterinary Services Laboratories, and the names and addresses of approved laboratories can be obtained from the Deputy Administrator Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Federal Building, Hyattsville, Maryland 20782.

[3] Facilities and procedures which are adequate to prevent the transmission of equine infectious anemia, and the names and addresses of approved diagnostic or research facilities, can be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Federal Building, Hyattsville, MD 20782.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

Licensing Requirements for the Export of Nuclear Equipment and Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations pertaining to the export of nuclear equipment and material: (1) To require certain holders of export licenses to notify the Commission in writing at least 40 days prior to exporting Canadian-origin nuclear

material or equipment; (2) to expand the general license for byproduct material to cover the export of americium-241 contained in industrial process control equipment; and (3) to update the list of countries in the provisions setting out restricted destinations (§ 110.29) by deleting from the list certain countries that recently have adhered to the Nuclear Non-Proliferation Treaty (NPT). This action is necessary to implement portions of the U.S./Canada Agreement for Cooperation, to correct an oversight in the current regulations, and to continue the policy of facilitating nuclear cooperation with countries sharing the non-proliferation goals of the United States.

EFFECTIVE DATE: April 14, 1986.

FOR FURTHER INFORMATION CONTACT: Elaine O. Hemby, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 492–7984 or Joanna Becker, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 492–7630.

SUPPLEMENTARY INFORMATION: The Executive Branch has requested the NRC to amend its regulations in § 110.50(b)(3) concerning the notification of the export of foreign-origin nuclear material or equipment so that it will include Canadian-origin nuclear material and equipment in addition to Australian-origin nuclear material and equipment. This action will carry out Article XII, paragraph D of the U.S./Canada Agreement for Cooperation which requires the consent of Canadian authorities before the Canadian-origin nuclear material and equipment may be exported from the United States. In most cases, Canadian authorities have given their prior consent for retransfer at the time the material is imported into the United States. In other cases, where the country of origin is not known at the time NRC issues the license, the license holder or applicant must notify NRC in writing at least 40 days prior to actual export of the material or equipment in order to obtain United States Government authorization should the nuclear material or equipment be determined to be Canadian origin. The NRC will consult with the Executive Branch to obtain Canadian consent for the shipment. During this period, the licensee may not ship the nuclear material or equipment until authorized by NRC. Consultations normally will be completed well within 40 days.

The NRC is also amending its regulations concerning the restrictions on exports of byproduct material under the general license set out in § 110.23(b). This amendment will allow the export of americium-241 contained in industrial process control equipment. This amendment corrects an oversight in the current general license regulations covering americium-241 which now prohibit the export of americium-241 exceeding one curie per shipment or 100 curies per year to countries listed in § 110.29 unless it is contained in petroleum exploration equipment. Because it was never the intention of the Commission to prohibit exports of americium-241 for legitimate commercial use, the regulation will be amended to correct this oversight.

The NRC is also amending its regulations in § 110.29, the list of restricted destinations for exporting nuclear materials and equipment under general licenses, in order to delete the following countries: Belize, Bhutan, Equatorial Guinea, Kiribati, St. Vincent and the Grenadines, and Seychelles. These countries are recent adherents to the NPT. This amendment removes special restrictions on the export of nuclear material and equipment to certain countries which have adhered to the NPT, thereby continuing the United States Government policy of facilitating nuclear cooperation with countries sharing U.S. non-proliferation goals. Because these amendments involve a foreign affairs function of the United States, the Administrative Procedure Act provisions governing rulemaking do not apply to this action (5 U.S.C. 553 (a)(i)). Therefore, a notice of proposed rulemaking is not required for this action and the final rule may be made effective upon publication in the **Federal Register.**

Environmental Impact: Categorical Exclusion

The NRC has determined that the amendments to Part 110 in this regulation are the type of action described in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this regulation.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget approval number 3150–0036.

Regulatory Analysis

The Commission has prepared a regulatory analysis of this final regulation.The analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, 1717 H Street, NW., Washington, DC. Single copies of the analysis may be obtained from Elaine Hemby, Office of International Programs, U.S Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–7984.

Backfit

The NRC has determined that the backfit provisions in 10 CFR 50.109 do not apply to amendments to 10 CFR Part 110 rule changes, since the regulations in Part 110 apply only to the export of nuclear facilities, material, and components and have no impact on domestic facilities. Therefore, a backfit analysis has not been prepared for these amendments.

List of Subjects in 10 CFR Part 110

Administrative practice and procedure, Classified information, Export, Import, Incorporation by reference, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting and recordkeeping requirements, Scientific equipment.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553 the following amendments to 10 CFR Part 110 are published as a document subject to codification.

PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

1. The authority citation for Part 110 continues to read as follows:

Authority: Secs. 51, 53, 54, 57, 63, 64, 65, 81, 82, 103, 104, 109, 111, 126, 127, 128, 129, 161, 181, 182, 183, 187, 189, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2071, 2073, 2074, 2077, 2092–2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2141, 2154–2158, 2201, 2231–2233, 2237, 2239); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Section 110.1(b)(2) also issued under Pub. L. 96–533, 94 Stat. 3138 (42 U.S.C. 2403). Section 110.11 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2151) and secs. 54c. and 57d., 88 Stat. 473, 475 (42 U.S.C. 2074). Section 110.50(b)(3) also issued under sec. 123, 92 Stat. 142 (42 U.S.C. 2153). Section 110.51 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 110.52 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236). Sections 110.80–110.113 also issued under 5 U.S.C. 552, 554. Sections 110.130–110.135 also issued under 5 U.S.C. 553.

For the purpose of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 110.20–110.29, 110.50, and 110.120–110.129 also issued under secs. 161b. and i., 68 Stat. 948, 949, as amended (42 U.S.C. 2201(b) and (i)); and

§ 110.53 also issued under sec. 161o., 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 110.23, paragraph (b) is revised to read as follows:

§ 110.23 Export of byproduct material.

* * * * *

(b) A general license is issued to any person to export americium-241 to any country not listed in § 110.28, except that exports of americium-241 exceeding one curie per shipment or 100 curies per year to any country listed in § 110.29—

(1) Must be contained in industrial process control equipment or petroleum exploration equipment in quantities not exceeding 20 curies per device; and

(2) May not exceed 200 curies per year to any one country.

* * * * *

3. Section 110.29 is revised to read as follows:

§ 110.29 Restricted destinations.

Afghanistan	Libya
Albania	Malawi
Algeria	Mauritania
Andorra	Mozambique
Angola	Niger
Argentina	Oman
Bahrain	Pakistan
Brazil	Qatar
Burma	Saudi Arabia
Chile	South Africa
Comoros	St. Kitts
Djibouti	Syria
Guyana	Tanzania
India	United Arab Emirates
Iran	Vanuatu
Iraq	Yemen Arab Republic
Israel	Zambia
Kuwait	Zimbabwe

4. In § 110.50, paragraph (b)(3) is revised to read as follows:

§ 110.50 Terms.

* * * * *

(b) * * *

(3) Unless a license specifically authorizes the export of foreign-origin nuclear material or equipment, a licensee shall notify in writing the Assistant Director for Export/Import and International Safeguards at least 40 days prior to export of Australian-origin or Canadian-origin nuclear material or equipment. A licensee may not ship this material or equipment until authorized by the Assistant Director for Export/Import and International Safeguards. The Assistant Director will not authorize shipment until after obtaining the consent of the Australian Government for Australian-origin material or the Canadian Government for Canadian-origin material.

* * * * *

Dated at Bethesda, Maryland, this 1st day of April 1986.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Acting Executive Director for Operations.

[FR Doc. 86-8265 Filed 4-11-86; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Social Security; Cost-of-Living Increases; Delayed Retirement Credits; and Maximum Family Benefits

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: In these regulations, we explain that cost-of-living increases in Old-Age, Survivors, and Disability Insurance (OASDI) benefits are no longer necessarily based solely on price increases. Now, we must also consider wage increases if the balance in the Social Security Trust Funds falls below a certain level. However, cost-of-living increases in Supplemental Security Income (SSI) benefits will continue to be based solely on the Consumer Price Index (CPI) increase percentage. The period for measuring these increases and their effective dates are also changed.

We also explain how old-age insurance benefits and some survivor benefits are increased because of credit to the insured worker for delayed retirement, and how we are modifying the computation of maximum benefits payable to a family where one or more children are entitled based on the earnings of more than one worker.

These rules are based on sections 111, 112, 114, 201, 331, and 401 of Pub. L. 98-21 (the Social Security Amendments of 1983), with further amendments to the Social Security Act by section 2661(k) of Pub. L. 98-369 (the Deficit Reduction Act of 1984).

DATES: These rules are effective April 14, 1986. The statutory provisions which they implement are effective as explained in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Jack Schanberger, Room 3-B-4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-6785.

SUPPLEMENTARY INFORMATION:

Cost-of-living Increases

Since 1975, beneficiaries under the Old-Age, Survivors, and Disability Insurance (OASDI) programs have been entitled to cost-of-living increases in their monthly benefits each year because prices increased by at least 3.0 percent over those of the previous year. When OASDI benefits were increased, benefits under the Supplemental Security Income (SSI) program were increased by the same percentage. The basis for these increases has been the Consumer Price Index (CPI) for urban wage earners and clerical workers, as published by the Department of Labor, for the first calendar quarter of each year.

The National Commission on Social Security Reform and the Congress realized that the expected deficits in the Social Security Trust Funds would be caused in part by the fact that price increases, as measured by the CPI, exceeded wage increases in recent years. Thus, cost-of-living increases in benefits based on the CPI drew more from the Trust Funds than was put in the Funds by payroll taxes on wage increases. Congress dealt in part with the expected deficits by changing the method and the time for computing cost-of-living increases. These provisions are included in sections 111 and 112 of the Social Security Amendments of 1983 (the Amendments).

As one way of dealing with the expected deficits in the trust funds, Congress provided in section 111 of the Amendments that the OASDI cost-of-living increase for 1983 must be deferred from June until December (payable in the January check) and that increases in subsequent years will also be effective in December instead of in June. We explain this in revisions to §§ 404.270 and 404.271. Additionally, the SSI increase, which is based on the OASDI increase, was deferred until January 1984 (payable on December 30, 1983) and will be effective in January in subsequent years instead of in July.

As required by the Social Security Act (the Act), we published notice of the cost-of-living increases by publishing in the **Federal Register** on June 13, 1983, a 3.5 percent increase for December 1983 for OASDI benefits and for January 1984 for SSI benefits (48 FR 27150). In that notice, we also published increased SSI benefit amounts effective with July 1983, as provided by section 401 of the Amendments. Those increased SSI amounts were further increased by the cost-of-living increase in January 1984. Then on October 31, 1984, we published a notice of a cost-of-living increase of 3.5 percent for December 1984 for OASDI benefits and for January 1985 for SSI benefits (49 FR 43775). More recently, we published on October 31,

1985 a notice announcing a 3.1 percent cost-of-living increase for December 1985 for OASDI benefits and 3.1 percent for January 1986 for SSI benefits (50 FR 45558).

Another significant step for dealing with the expected deficits is a revised method of computing the cost-of-living increase for OASDI benefits, as provided in section 112 of the Amendments. We explain this revised method in the changes to §§ 404.272–404.275.

When the OASDI fund ratio is 15.0 percent or more in any year from 1984 through 1988 or 20.0 percent or more in any year after 1988, we will determine whether there will be a cost-of-living increase for December of that year and the amount of any increase by using the CPI as we have done since 1975, except that we will use the third quarter figures instead of the first quarter figures. For years after 1984, the OASDI fund ratio is the ratio of the assets in the OASDI Trust Funds on January 1 of a given year to the estimated expenditures from the funds in the same year. For 1984 only, we used the estimated assets in the OASDI Trust Funds on December 31, 1984 (this is discussed further in another notice). In each year, the ratio will be rounded to the nearest 0.1 percent. Although not explicitly provided in the Act, we believe that this is what Congress intended because the Act states the 15.0 and 20.0 threshold ratios with one-decimal accuracy.

When the OASDI fund ratio is less than the specified percent for a given year, we will determine whether there will be a benefit increase for that year and the amount of any OASDI increase by using the smaller of the increase from one year to the next in prices as measured by the CPI or in wages as measured by the average wage index (AWI). The AWI is the average of the annual total wages of all workers that we use for computing primary insurance amounts for insured workers, as explained in Subpart C of Part 404 of these Regulations.

Note.—In Pub. L 98–604, Congress waived the requirement that the increase in the appropriate index (CPI or AWI) must be at least 3.0 percent in order for a cost-of-living increase in OASDI or SSI benefits to occur. Since the waiver applied only to the cost-of-living increae payable in January 1985, it is not discussed in the proposed revisions to the regulations. In fact, the January 1985 increase was 3.5 percent, as published in the **Federal Register** on October 31, 1984 (49 FR 43775).

Congress further decided that beneficiaries who must accept smaller OASDI increases when the OASDI fund ratio is low should, after the ratio exceeds a certain level, have their benefits increased to the level the benefits would have reached if all increases had been based on increases in the CPI. Therefore, there is a "catch-up" provision, which we explain in the proposed § 404.278, so that when the OASDI fund ratio exceeds 32.0 percent, an additional cost-of-living increase can be paid. However, the additional increase will be paid only to the extent that it would not result in the OASDI fund ratio for the year after the year in which the increase is effective being reduced to less than 32.0 percent and only to the extent it is needed to raise the benefits approximately to the level they would have reached if they had been increased based on the CPI.

As provided in the Amendments and modified by the Deficit Reduction Act of 1984, we will compute the additional increase based on the differences between the compounded percentage benefit increase for the cost-of-living increases that were actually paid and the compounded percentage benefit increase that would have been paid based on the CPI if the OASDI fund ratio had not been below the specified percentage.

In revisions to § 416.405, we have updated the rule on how we compute the cost-of-living increase for SSI benefits. We explain that, as provided in section 401 of the Amendments, the SSI benefits will continue to be increased by the same percentage by which title II benefits are being increased based on the CPI, or would be increased if the CPI had been the basis for the title II increase. Also, in § 416.405, we had deleted an erroneous reference to § 416.414. Further, we have updated the benefit amount in §§ 416.410, 416.412, and 416.413.

Delayed Retirement Credit

We are introducing into Subpart D of Part 404 rules on the delayed retirement credit. We removed similar rules from Subpart C when it was recodified in 1982 (47 FR 30731, July 15, 1982). In these regulations, we have rewritten those former rules to make them easier to understand, and added provisions relating to section 114 of the 1983 Amendments which increase the amount of the credit.

The delayed retirement credit is basically a percentage increase in the benefit amount of a worker who does not receive old-age insurance benefits in one or more months after the month in which he or she reaches retirement age, either because he or she continued to work or simply did not apply for benefits. (The current retirement age is 65, but it will gradually increase in the next century to 67.) Any credit earned by the worker also extends to benefits for the worker's surviving spouse or surviving divorced spouse.

The Act provides that the amount of the delayed retirement credit, which is stated as a percentage increase in benefits, is based on the year the worker becomes eligible for old-age insurance benefits. The age of eligibility is 62. However, in these regulations, we discuss the amount of the credit in terms of when the worker reaches age 65 because that is the current retirement age at which the worker begins to earn the credit.

Before the enactment of the 1983 Amendments, the credit was one-fourth of one percent of the worker's monthly benefit amount times the number of months beginning with the month of reaching age 65 and ending with the month before reaching age 72 for which the worker was fully insured but did not receive benefits. This rate was applicable to workers who reached age 65 at any time after 1981. Section 114 of the Amendments provides in effect that for persons who attain age 65 in 1990 or later, the one-fourth of one percent rate will be increased by one-twenty-fourth of one percent in each even year until the rate reaches two-thirds of one percent for persons reaching age 66 in 2009 and later. The Amendments also lower from 72 to 70 the age at which the credits can no longer be earned. This lower age applies effective January 1984. This change in the age limit is consistent with the lowering to 70 the age at which deductions for earnings are no longer applicable to working beneficiaries.

Child's Benefit Amounts

We have reworded and clarified the rules in §§ 404.353 and 404.407 to provide that a child entitled to benefits on the earnings record of more than one worker may receive a benefit based on the record with a smaller primary insurance amount if that record yields the highest benefit for the child and if paying the child on that record does not adversely affect other beneficiaries. These changes make the rules read consistent with Section 202(k)(2)(A) of the Act and with the way we have been implementing this provision of law.

Section 202(k)(2)(A) of the Act requires, as a general rule, that we pay the simultaneously entitled child on the earnings record which yields the highest primary insurance amount. However, if paying this child on a record with a lower primary insurance amount results in a higher benefit amount for the child and will not adversely affect the benefit amount of any other person on any earnings record on which the

simultaneously entitled child is entitled, then we must pay the child on the record which yields the lower primary insurance amount. The persons entitled on the earnings record on which the simultaneously entitled child will not be paid will be paid as though that child is not entitled on that record.

The language we replaced in §§ 404.353 and 404.407 focused only on the adverse effects of other beneficiaries being paid on the record with the lower primary insurance amount. Thus, those current rules did not fully reflect our interpretation of the Act. Under our interpretation of the Act, we consider the other beneficiaries entitled on any earnings records. Thus, if the individual benefit being paid to the other beneficiary (or beneficiaries) would not be reduced, the child is paid on the record with the lower primary insurance amount.

Maximum Family Benefits

The Act provides that when a child is entitled to benefits on more than one worker's record, the maximum family benefit amounts payable on each record are combined. Under the Act as in effect before the 1983 Amendments, the total payable was the smaller of the sum of the maximums on each record or 1.75 times the highest primary insurance amount possible under the average indexed monthly earnings method (see § 404.210) based on the contribution and benefit base (which we publish each year) for each year for which the combined maximum benefits are payable. This meant that a new primary insurance amount (and thus a new maximum family benefit amount) had to be computed each January for that year for certain beneficiaries.

The new primary insurance amount was based on wage increases as reflected in the contribution and benefit base, and did not consider price increases which were the basis for the cost-of-living increase in the previous year. Therefore, if wage increases were greater or lesser than price increases, the new primary insurance amount was greater or lesser than the former primary insurance amount which had been increased by the percentage of the most recent cost-of-living increase. The effect on the maximum family benefit amount, after multiplying the new primary insurance amount by 1.75, was a decrease for current beneficiaries when wages did not rise as much as prices, and thus a decrease in benefit amounts. Conversely, there was a windfall increase in benefits when wages rose faster than prices.

To eliminate these inequitable fluctuations in maximum family benefit amounts, the 1983 Amendments provide in section 331 that the maximum family benefit amount is the smaller of the sum of the maximums of 1.75 times the highest primary insurance amount possible for January 1983 (or if later, January of the year a child becomes entitled on more than one record) based on one-twelfth of the contribution and benefit base for that year. Thereafter, that primary insurance amount and the resulting maximum family benefit amount after multiplying the primary insurance amount by 1.75 will be increased only on the basis of cost-of-living increases, instead of on changes in the contribution and benefit base. We explain this provision in a new paragraph (f) of § 404.403.

Comments

These rules were published as a Notice of Proposed Rulemaking at 50 FR 27615 on July 5, 1985. We received comments from two parties.

One party is concerned that the catch-up cost-of-living increase explained in § 404.278 will increase administrative expenses for States and for the Federal government. Our response is that we are required by law to provide the catch-up increase if the required conditions are met. Moreover, the additional expenses should not be excessive because the catch-up increase is applied at the time of a regular cost-of-living increase.

The second party had suggestions for clarifying the language in several sections. In response we have changed §§ 404.278 (d)(1) and (d)(2), and 404.313 (a)(2), (b)(1), (c) and (d).

Changes to Notice of Proposed Rulemaking

In addition to the changes in response to comments, we have made the following substantive changes:

1. Added the cost-of-living increases which were published in the **Federal Register** on October 31, 1985.

2. Revised § 404.275(b) so that the discussion on rounding is consistent with paragraph (a).

3. Revised § 404.278(b)(1)(i) to change "last" to "first", as provided in Section 215(i)(5)(B)(iv) of the Social Security Act.

4. Deleted paragraphs (1), (2), and (3) of § 404.278(c) because the computation is also explained in paragraph (d).

5. Updated a cross-reference in § 404.312.

6. Revised § 404.403 to relate the new paragraph (f)(1) to the current paragraphs (c) and (d). We have also revised paragraph (f)(2) to provide that the rule in (f)(1) rather than (e)(1) applies in certain situations.

Except for these changes, the changes in response to comments, and minor editorial changes, we are adopting the rules as proposed.

Regulatory Procedures

Executive Order 12291

These regulations have been reviewed under E.O. 12291. The provisions for shifting the cost-of-living adjustment from June to December (July to January for SSI) are expected to reduce OASDI program expenditures by more than $17 billion and SSI by about $395 million for the fiscal years 1986–1988. However, these provisions are required by Pub. L. 98–21 and we have no discretion in implementing them. The cost of the other provisions discussed in these regulations is expected to be negligible. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

The regulations impose no reporting/recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only benefit amounts payable to individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

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

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 7, 1986.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: March 19, 1986.

Otis R. Bowen, M.D.,

Secretary of Health and Human Services.

Subparts C, D, and E of Part 404 and Subpart D of 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 Subpart C of Part 404 is revised to read as follows:

Authority: Secs. 202, 205, 215, and 1102 of the Social Security Act, as amended; 49 Stat. 623, 53 Stat. 1368, as amended; 64 Stat. 506, as amended; 49 Stat. 647; 42 U.S.C. 402, 405, 415, and 1302.

2. The authority citation for Subpart D of Part 404 is revised to read as follows:

Authority: Secs. 202, 205, 216, 223, 228, 1102 of the Social Security Act, 49 Stat. 623, 53 Stat. 1362, 53 Stat. 1368, 64 Stat. 492, 64 Stat. 510, 70 Stat. 815, 80 Stat. 67, 49 Stat. 647; Sec. 5, Reorganization Plan No. 1 of 1953, 67 Stat. 631, 95 Stat. 834; 42 U.S.C. 402, 405, 416, 423, 428, and 1302; and 5 U.S.C. Appendix.

3. The authority citation for Subpart E of Part 404 is revised to read as follows:

Authority: Secs. 203, 205, 207, and 1102, 49 Stat. 623, 53 Stat. 1368, as amended, 79 Stat. 379, as amended, 49 Stat. 647, as amended; Sec. 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18; 42 U.S.C. 403, 405, 427, 1302.

§ 404.270 [Amended]

4. Section 404.270 is amended by changing "June" to "December" in the first sentence.

§ 404.271 [Amended]

5. Section 404.271 is amended by changing the cross-reference in paragraph (a) to § 404.380 and by changing "June' to "December" in paragraph (c).

6. Section 404.272 is revised to read as follows:

§ 404.272 Indexes we use to measure the rise in the cost-of-living.

(a) *The bases.* To measure increases in the cost-of-living for annual automatic increase purposes, we use either:

(1) The revised Consumer Price Index (CPI) for urban wage earners and clerical workers as published by the Department of Labor, or

(2) The average wage index (AWI), which is the average of the annual total wages that we use to index (i.e., update) a worker's past earnings when we compute his or her primary insurance amount (§ 404.211(c)).

(b) *Effect of the OASDI fund ratio.* Which of these indexes we use to measure increases in the cost-of-living depends on the Old-Age, Survivors, and Disability Insurance (OASDI) fund ratio.

(c) *OASDI fund ratio for years after 1984.* For purposes of cost-of-living increases, the OASDI fund ratio is the ratio of the combined assets in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund (see section 201 of the Social Security Act) on January 1 of a given year, to the estimated expenditures from the Funds in the same year. The January 1 balance consists of the assets (i.e., government bonds and cash) in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, plus Federal Insurance Contributions Act (FICA) and Self-Employment Contributions Act (SECA) taxes transferred to these trust funds on January 1 of the given year, minus the outstanding amounts (principal and interest) owed to the Federal Hospital Insurance Trust Fund as a result of interfund loans. Estimated expenditures are amounts we expect to pay from the Old-Age and Survivors Insurance and the Disability Insurance Trust Funds during the year, including the net amount that we pay into the Railroad Retirement Account, but excluding principal repayments and interest payments to the Hospital Insurance Trust Fund and transfer payments between the Old-Age and Survivors Insurance and the Disability Insurance Trust Funds. The ratio as calculated under this rule is rounded to the nearest 0.1 percent.

(d) *Which index we use.* We use the CPI if the OASDI fund ratio is 15.0 percent or more for any year from 1984 through 1988, and if the ratio is 20.0 percent or more for any year after 1988. We use either the CPI or the AWI, depending on which has the lower percentage increase in the applicable measuring period (see § 404.274), if the OASDI fund ratio is less than 15.0 percent for any year from 1984 through 1988, and if the ratio is less than 20.0 percent for any year after 1988. For example, if the OASDI fund ratio for a year is 17.0 percent, the cost-of-living increase effective December of that year will be based on the CPI.

7. Section 404.273 is revised to read as follows:

§ 404.273 When automatic cost-of-living increases are to be made.

We make automatic cost-of-living increases if the applicable index, either the CPI or the AWI, rises by 3.0 percent or more over a specified measuring period (see the rules in § 404.274). If the cost-of-living increase is to be based on an increase of 3.0 percent or more in the CPI, the increase becomes effective in December of the year in which the measuring period ends. If the increase is to be based on an increase of 3.0 percent or more in the AWI, the increase becomes effective in December of the year after the year in which the measuring period ends.

8. Section 404.274 is revised to read as follows:

§ 404.274 Measuring the increase in the indexes.

(a) *General.* Depending on the OASDI fund ratio, we measure the rise in one index or in both indexes during the applicable measuring period (described in paragraphs (b) and (c) of this section) to determine whether there will be an automatic cost-of-living increase and if so, its amount.

(b) *Measuring period based on CPI.* For the increase effective December 1984 and later years, the measuring period we use for finding the amount of the CPI increase—

(1) Begins with—

(i) Any calendar quarter in which an *ad hoc* benefit increase is effective; or, if later,

(ii) The third calendar quarter of any year in which the last automatic increase became effective; and

(2) Ends with the third calendar quarter of the following year, but only if the CPI has increased by at least 3.0 percent (after rounding to the nearest one-tenth of one percent) since the beginning of the measuring period. (If the CPI increase is less than 3.0 percent, we extend the measuring period to the third quarter of the next year, doing so repeatedly until the 3.0 percent level is reached.) If this measuring period ends in a year after the year in which an *ad hoc* increase was enacted into law or took effect, there can be no cost-of-living increase based on this measuring period, and we will apply the rule in paragraph (d) of this section.

(c) *Measuring period based on AWI.* The measuring period we use for finding the amount of the AWI increase—

(1) Begins with—

(i) The calendar year before the year in which an *ad hoc* benefit increase is effective; or, if later,

(ii) The calendar year before the year in which the last automatic increase became effective; and

(2) Ends with the following year, but only if the AWI has increased by at least 3.0 percent (after rounding to the nearest one-tenth of one percent) in that one-year period. (If the AWI increase is less than 3.0 percent, we extend the measuring period to the next year, doing so repeatedly until the 3.0 percent level is reached.) If this measuring period ends in a year in which an *ad hoc* increase was enacted into law or took effect, there can be no cost-of-living increase based on this measuring period, and we will apply the rule in paragraph (d) of this section.

(d) *When no automatic cost-of-living increase is possible.* No automatic cost-of-living increase is possible for the calendar year that immediately follows

a year in which an *ad hoc* increase was enacted into law or took effect. The measuring period for the next automatic cost-of-living increase—

(1) Where the measuring period is based on the CPI,

(i) Begins with the calendar quarter in which the *ad hoc* increase took effect; and

(ii) Ends with the third calendar quarter of the next year in which the CPI has risen by at least 3.0 percent if an *ad hoc* increase was not enacted or effective in the preceding year. (If the CPI increase is less than 3.0 percent, or an *ad hoc* increase was enacted or effective in the prior year, we extend the end of the measuring period to the third quarter of the following year, doing so repeatedly until the 3.0 percent level is reached in a year which does not immediately follow an *ad hoc* increase year.)

(2) Where the measuring period is based on the AWI,

(i) Begins with the calendar year before the year in which the *ad hoc* increase took effect; and

(ii) Ends with the next calendar year in which the AWI has increased by at least 3.0 percent and in which an *ad hoc* increase is not enacted or effective. (If the AWI increase is less than 3.0 percent, we extend the end of the measuring period to the following year, doing so repeatedly until the 3.0 percent level is reached in a year in which an *ad hoc* increase is not enacted or effective.)

9. Section 404.275 is amended by deleting the authority citations and revising the text to read as follows:

§ 404.275 Amount of automatic cost-of-living increases.

(a) *Based on CPI.* When the average of the CPI for the three months of the quarter ending the measuring period is at least 3.0 percent higher than the average of the CPI for the three months of the quarter in which the measuring period began, we compute an automatic cost-of-living increase percentage to be effective beginning with benefits payable for December of the year in which the measuring period ended. To compute the average of the CPI, the three monthly CPI figures (which are published to one decimal place) are added, the total is divided by 3, and the result is rounded to the nearest 0.1. If the CPI is the applicable index (see § 404.272(d)), we apply the increase (rounded to the nearest one-tenth of one percent) to the amounts described in § 404.271. We round the resulting amounts to the next lower multiple of $0.10 if not already a multiple of $0.10.

(b) *Based on AWI.* When the AWI for the year which ends the measuring period is at least 3.0 percent higher than the AWI for the year which begins the measuring period and all the other conditions for an AWI-based increase are met, that percent is the automatic cost-of-living increase which is due beginning with benefits payable for December of the year after the measuring period ended. If the AWI is the applicable index (see § 404.272(d)), we apply that percentage increase (rounded to the nearest one-tenth of one percent) to the amounts described in § 404.271. We round the resulting amounts to the next lower multiple of $0.10 if not already a multiple of $0.10.

(c) *Additional increase.* See § 404.278 for the additional increase which might be possible.

§ 404.277 [Amended]

10. Section 404.277 is amended in paragraph (b) by changing "June" to "December" each place it appears and by deleting the authority citation.

11. A new section 404.278 is added to read as follows:

§ 404.278 Additional cost-of-living increase.

(a) *General.* In addition to the cost-of-living increase explained in § 404.275 for a given year, we will further increase the amounts in § 404.271 if—

(1) The OASDI fund ratio is more than 32.0 percent in the given year in which a cost-of-living increase is due; and

(2) In any prior year, the cost-of-living increase was based on the AWI as the lower of the CPI and AWI (or would have been based on the AWI except that it was less than the required 3.0 percent increase).

(b) *Measuring period for the additional increase*—(1) *Beginning.* To compute the additional increase, we begin with—

(i) In the case of certain uninsured beneficiaries age 72 and older (see § 404.380), the first calendar year in which a cost-of-living adjustment was based on the AWI rather than the CPI;

(ii) For all other individuals and for maximum benefits payable to a family, the year in which the insured individual became eligible for old-age or disability benefits to which he or she is currently entitled, or died before becoming eligible.

(2) *Ending.* The end of the measuring period is the year before the first year in which a cost-of-living increase is due based on the CPI and in which the OASDI fund ratio is more than 32.0 percent.

(c) *Compounded percentage benefit increase.* To compute the additional cost-of-living increase, we must first compute the compounded percentage benefit increase (CPBI) for both the cost-of-living increases that were actually paid during the measuring period and for the increases that would have been paid if the CPI had been the basis for all the increases.

(d) *Computing the CPBI.* The computation of the CPBI is as follows—

(1) Obtain the sum of (i) 1.000 and (ii) the actual cost-of-living increase percentage (expressed as a decimal) for each year in the measuring period;

(2) Multiply the resulting amount for the first year by that for the second year, then multiply that product by the amount for the third year, and continue until the last amount has been multiplied by the product of the preceding amounts;

(3) Subtract 1 from the last product;

(4) Multiply the remaining product by 100. The result is what we call the *actual* CPBI.

(5) Substitute the cost-of-living increase percentage(s) that would have been used if the increase(s) had been based on the CPI (for some years, this will be the percentage that was used), and do the same computations as in paragraphs (d)(1) through (4) of this section. The result is what we call the *assumed* CPBI.

(e) *Computing the additional cost-of-living increase.* To compute the precentage increase, we—

(1) Subtract the actual CPBI from the assumed CPBI;

(2) Add 100 to the actual CPBI;

(3) Divide the answer from paragraph (e)(1) of this section by the answer from paragraph (e)(2) of this section, multiply the quotient by 100, and round to the nearest 0.1. The result is the additional increase percentage, which we apply to the appropriate amount described in § 404.271 after that amount has been increased under § 404.275 for a given year. If that increased amount is not a multiple of $0.10, we will decrease it to the next lower multiple of $0.10.

(f) *Restrictions on paying an additional cost-of-living increase.* We will pay the additional increase to the extent necessary to bring the benefits up to the level they would have been if they had been increased based on the CPI. However, we will pay the additional increase only to the extent payment will not cause the OASDI fund ratio to drop below 32.0 percent for the year after the year in which the increase is effective.

§ 404.312 [Amended]

12. In § 404.312, the cross-reference in paragraph (b) is amended to read §404.313.

13. A new § 404.313 is added to read as follows:

§ 404.313 Using delayed retirement credit to increase old-age benefit amount.

(a) *General.* (1) If you do not receive old-age benefits for the month you reach age 65 (retirement age) or for any later month before the month in which you reach age 70 (72 before 1984), you may earn delayed retirement credits which will increase your benefit amount when you retire. You earn delayed retirement credits for each of those months for which you are fully insured and are eligible for but do not receive old-age benefits, either because of your work or earnings, or because you have not applied for benefits. If you were entitled to old-age benefits before age 65 you may still earn delayed retirement credit for months beginning with age 65 in which your benefits were reduced to zero because of your work or earnings.

(2) Retirement age is the age at which entitlement to full benefits may begin and is the age at which you may begin to earn delayed retirement credits. Age 65 is the retirement age for workers who reach that age before the year 2003. For workers who reach age 65 after 2002, retirement age will gradually increase from 65 to 67, depending on each person's date of birth.

(b) *How we determine delayed retirement credits.*—(1) *General.* The amount of the delayed retirement credit depends on the year you reach retirement age, and the number of months you are eligible for and do not receive old-age benefits from retirement age to age 70 (72 before 1984). We total these months, which need not be consecutive, multiply the total by the applicable percent as provided in paragraphs (b) (2), (3), and (4) of this section, multiply your benefit amount by this product, and round to the next lowest multiple of $0.10 if the answer is not already a multiple of $0.10. The result is your delayed retirement credit which we add to your benefit amount. The supplementary medical insurance premium, if any, is then deducted and the result is rounded to the next lowest multiple of $1.00 if it is not already a multiple of $1.00.

(2) *Before 1982.* If you reach age 65 before 1982, your delayed retirement credit equals one-twelfth of one percent of your benefit amount times the number of months after 1970 in which you are age 65 or older and for which you are eligible but do not receive old-age benefits.

(3) *After 1981 and before 1990.* If you reach age 65 after 1981 and before 1990, your delayed retirement credit equals one-fourth of one percent of your monthly benefit amount times the number of months in which you are age 65 or older and for which you are eligible but do not receive old-age benefits.

(4) *Beginning with 1990.* If you reach age 65 in 1990 or later, the rate of the delayed retirement credit (i.e., one-fourth of one percent as stated in paragraph (b)(3) of this section) is increased by one-twenty-fourth of one percent in each even year through 2008. Thus, depending on when you reach age 65, your delayed retirement credit percent will be as follows:

Year you reach age 65	Delayed retirement credit percent
1990	7/24 of 1 percent.
1991	7/24 of 1 percent.
1992	1/3 of 1 percent.
1993	1/3 of 1 percent.
1994	3/8 of 1 percent.
1995	3/8 of 1 percent.
1996	5/12 of 1 percent.
1997	5/12 of 1 percent.
1998	11/24 of 1 percent.
1999	11/24 of 1 percent.
2000	1/2 of 1 percent.
2001	1/2 of 1 percent.
2002	13/24 of 1 percent.
2003	13/24 of 1 percent.
2004	7/12 of 1 percent.
2005	7/12 of 1 percent.
2006	5/8 of 1 percent.
2007	5/8 of 1 percent.
2008 and later	2/3 of 1 percent.

Example. Alan was qualified for old-age benefits when he reached age 65 in January 1983, but decided not to apply for old-age benefits immediately because he was still working. When he became age 66 in January 1984, he stopped working and applied for these benefits beginning with that month. Based on his earnings, his primary insurance amount was $226.60, and his monthly old-age benefit after deducting his supplemental medical insurance premium was $211.00 ($226.60 minus $15.50 SMI premium equals $211.10, rounded to $211.00), if no delayed retirement credits were added. However, he did not receive benefits for the 12 months from the month in which he became 65 (January 1983) until the first month in which he stopped working (January 1984). Therefore, his monthly old-age benefit of $226.60 was increased by three percent (one-quarter of one percent times 12 months) to yield a total $233.39, which rounded to the next lower multiple of $0.10 is $233.30. After deducting the SMI premium and rounding to the next lower multiple of $1, the benefit amount is $217.00.

(c) *Effective date of delayed retirement credit.* If you are entitled to benefits, we examine our records after the end of each calendar year to determine whether you have earned the delayed retirement credit (i.e., whether there were months in which you were fully insured and eligible for benefits, but did not receive them). Any increase in your benefit amount due to the delayed retirement credit is effective beginning with January of the year after the year the credit is earned. If you are age 65 or older and eligible for old-age benefits but have not applied, we compute the delayed retirement credit for the year(s) before you applied and pay it to you as part of your first benefit check. The delayed retirement credit for the year you applied and later years is added to your benefits beginning with the following January. However, in either case, in the year in which you attain age 70 (72 before 1984), we compute the credit through the month before the month you reach that age and add it to your benefit amount beginning with that month.

(d) *Delayed retirement credit and special minimum primary insurance amounts.* We do not add any delayed retirement credit to your old-age benefit if your benefit is based on the special minimum primary insurance amount described in § 404.260. We add the delayed retirement credit only to old-age benefits based on your regular primary insurance amount, i.e., as computed under one of the other provisions of Subpart C of this part. If your benefit based on the regular primary insurance amount plus your delayed retirement credit is higher than the benefit based on your special minimum primary insurance amount, we pay the higher amount to you. However, if the special minimum primary insurance amount is higher than the regular primary insurance amount without the delayed retirement credit, we use the special minimum primary insurance amount to determine the family maximum and the benefits of others entitled on your earnings record.

(e) *Effect of delayed retirement credit on other benefits*—(1) *Surviving spouse or surviving divorced spouse.* If you earned delayed retirement credits during your lifetime, we compute your surviving spouse's or surviving divorced spouse's benefit based on your regular primary insurance amount plus the amount of the delayed retirement credit. All delayed retirement credits, including credits in the year of death, can be used in computing your surviving spouse's or surviving divorced spouse's benefit beginning with the month of death. We compute the delayed retirement credit up to, but not including, the month of death.

(2) *Other family members.* We do not use your delayed retirement credits to increase the benefits of other family members entitled on your earnings record.

(3) *Family maximum.* The delayed retirement credits are added to your benefit after we compute the family maximum. However, your delayed retirement credits which are used to compute your surviving spouse's or surviving divorced spouse's benefit are

added to the spouse's benefits before we reduce for the family maximum.

14. Section 404.353 is amended by revising the second sentence in paragraph (b) and deleting the authority citations, to read as follows:

§ 404.353 Child's benefit amounts.

* * * * *

(b) * * *

If your benefit before any reduction would be larger on an earnings record with a lower primary insurance amount and no other person entitled to benefits on any earnings record would receive a smaller benefit as a result of your receiving benefits on the record with the lower primary insurance amount, you will receive benefits on that record. See § 404.407(d) for a further explanation. * * *

§ 404.403 [Amended]

15. Section 404.403 is amended by:

A. Revising the heading of paragraph (e) to read *"Person entitled on more than one record during years after 1978 and before 1984."*

B. Revising the cross-reference now reading "§ 404.353(d)" in paragraphs (b) introductory text and (e)(1) to read "§ 404.353(b)".

C. Deleting the authority citation.

D. Adding a new paragraph (f), to read as follows:

(f) *Person entitled on more than one record for years after 1983.* (1) If any person for whom paragraphs (c) and (d) would apply is entitled to monthly benefits on the earnings record of an insured individual would, except for the limitation described in § 404.353(b), be entitled to child's insurance benefits on the earnings record of one or more other insured individuals, the total benefits payable to all persons on the earnings record of any of those insured individuals may not be reduced to less than the smaller of—(i) the sum of the maximum amounts of benefits payable on the earnings records of all the insured individuals, or (ii) 1.75 times the highest primary insurance amount possible for January 1983, or if later, January of the year that the person becomes entitled or reentitled on more than one record.

This highest primary insurance amount possible for that year will be based on the average indexed monthly earnings equal to one-twelfth of the contribution and benefit base determined for that year. Thereafter, the total monthly benefits payable to persons on the earnings record of those insured individuals will then be increased only when monthly benefits are increased because of cost-of-living adjustments (see § 404.270ff).

(2) If benefits are payable on the earnings of more than one individual and the primary insurance amount of one of the insured individuals was computed under the provisions in effect before 1979 and the primary insurance amount of the other was computed under the provisions in effect after 1978, the maximum monthly benefits cannot be more than the amount computed under paragraph (f)(1) of this section.

16. Section 404.407 is amended by revising paragraph (d) to read as follows:

§ 404.407 Reduction because of entitlement to other benefits.

* * * * *

(d) *Child's insurance benefits.* A child may, for any month, be simultaneously entitled to a child's insurance benefit on more than one individual's earnings if all the conditions for entitlement described in § 404.350 are met with respect to each claim. Where a child is simultaneously entitled to child's insurance benefits on more than one earnings record, the general rule is that the child will be paid an amount which is based on the record having the highest primary insurance amount. However, the child will be paid a higher amount which is based on the earnings record having a lower primary insurance amount if no other beneficiary entitled on any record would receive a lower benefit because the child is paid on the record with the lower primary insurance amount. (See § 404.353(b)).

PART 416—[AMENDED]

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

Authority: Secs. 1102, 1611, 1612, 1617, and 1631 of the Social Security Act as amended; 49 Stat. 647, as amended, 86 Stat. 1466, 86 Stat. 1488, 86 Stat. 1475, 96 Stat. 404 (42 U.S.C. 1302, 1382, 1382a, and 1383).

18. Section 416.405 is revised to read as follows:

§ 416.405 Cost-of-living adjustments in benefits.

Whenever benefit amounts under title II of the Act (Part 404 of this Chapter) are increased by any percentage effective with any month as a result of a determination made under Section 215(i) of the Act, each of the dollar amounts in effect for such month under §§ 416.410, 416,412, and 416.413, as specified in such sections or as previously increased under this section or under any provision of the Act, will be increased. We will increase the unrounded yearly SSI benefit amount by the same percentage by which the title II benefits are being increased based on the Consumer Price Index, or, if greater, the percentage they would be increased if the rise in the Consumer Price Index were currently the basis for the title II increase. (See §§ 404.270–404.277 for an explanation of how the title II cost-of-living adjustment is computed.) If the increased annual SST benefit amount is not a multiple of $12, it will be rounded to the next lower multiple of $12.

19. Section 416.410 is revised to read as follows:

§ 416.410 Amounts of benefits; eligible individual.

The benefit under this part for an eligible individual who does not have an eligible spouse, who is not in a certain kind of institution (see § 416.211), and who is not a qualified individual (as defined in § 416.221), shall be payable at the rate of $4,032 per year ($336 per month) after rounding, effective for the period beginning January 1, 1986. This rate is the result of a 3.1 percent cost-of-living adjustment (see § 416.405) to the December 1985 rate. For the period January 1, 1985 through December 31, 1985, the rate payable, as increased by the 3.5 percent cost-of-living adjustment, was $3900 ($325 per month). For the period January 1, 1984 through December 31, 1984, the rate payable, as increased by the 3.5 percent cost-of-living adjustment, was $3,768 per year ($314 per month). For the period of July 1, 1983, through December 31, 1983, the rate payable was $3,651.60 per year ($304.30 per month), as provided by the Social Security Amendments of 1983 (Pub. L 98–21, section 401). For the period July 1, 1982, through June 30, 1983 the rate, as increased by the 7.4 percent cost-of-living adjustment, was $3,411.60 yearly ($284.30 monthly). The monthly rate is reduced by the amount of the individual's income which is not excluded pursuant to Subpart K of this part.

20. Section 416.412 is revised to read as follows:

§ 416.412 Amount of benefits; eligible couple.

The benefit under this part for an eligible couple, neither of whom is in a certain kind of institution (see § 416.211) nor is a qualified individual (as defined in § 416.221) shall be payable at the rate of $6,048 per year ($504 per month) after rounding, effective for the period beginning January 1, 1986. This rate is the result of a 3.1 percent cost-of-living adjustment (see § 416.405) to the December 1985 rate. For the period January 1, 1985 through December 31, 1985, the rate payable, as increased by

the 3.5 percent cost-of-living adjustment, was $5,856 ($488 per month). For the period January 1, 1984 through December 31, 1984, the rate payable, as increased by the 3.5 percent cost-of-living adjustment, was $5,664 per year ($472 per month). For the period July 1, 1983, through December 31, the rate payable was $5,476.80 per year ($456.40 per month), as provided by the Social Security Amendments of 1983 (Pub. L. 98–21, Section 401). For the period July 1, 1982, through June 30, 1983, the rate, as increased by the 7.4 percent cost-of-living adjustment, was $5,116.80 yearly ($426.40 monthly). The monthly rate is reduced by the amount of the couple's income which is not excluded pursuant to Subpart K of this part.

21. Section 416.413 is revised to read as follows:

§ 416.413 Amount of benefits; qualified individual.

The benefit under this part for a qualified individual (defined in § 416.221) is payable at the rate for an eligible individual or eligible couple plus an increment for each essential person (defined in § 416.222) in the household, reduced by the amount of countable income of the eligible individual or eligible couple as explained in § 416.420. A qualified individual will receive an increment of $2,016 per year ($168 per month) after rounding, effective for the period beginning January 1, 1986. This rate is the result of a 3.1 percent cost-of-living adjustment (see § 416.405) to the December 1985 rate, and is for each essential person (as defined in § 416.222) living in the household of a qualified individual. (See § 416.532.) For the period January 1, 1985 through December 31, 1985, the rate payable, as increased by the 3.5 percent cost-of-living adjustment, was $1,956 ($163 per month). For the period January 1, 1984 through December 31, 1984, the rate payable, as increased by the 3.5 percent cost-of-living adjustment, was $1,884 per year ($157 per month). For the period July 1, 1983, through December 31, 1983, the rate was $1,830 per year ($152.50 per month), as provided by the Social Security Amendments of 1983 (Pub. L. 98–21, section 401). For the period July 1, 1982, through June 30, 1983, the rate, as increased by the 7.4 percent cost-of-living adjustment, was $1,710 yearly ($142.50 monthly). The total benefit rate, including the increment, is reduced by the amount of the individual's or couple's income that is not excluded pursuant to Subpart K of this part.

[FR Doc. 86–8182 Filed 4–11–86; 8:45 am]

BILLING CODE 4190–11–M

Food and Drug Administration

21 CFR Part 73

[Docket No. 85C–0378]

Phthalocyanine Green; Listing as a Color Additive for Coloring Contact Lenses

Correction

In FR Doc. 86–7366 beginning on page 11432 in the issue of Thursday, April 3, 1986, make the following correction: In the first column, in the DATES paragraph, in the first line, "May 5, 1986" should read "May 6, 1986".

BILLING CODE 1505–01–M

21 CFR Part 178

[Docket No. 85F–0491]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 2,4-di-*t*-butylphenyl 3,5-di-*t*-butyl-4-hydroxybenzoate as a light stabilizer for polymers intended for use in contact with food. This action responds to a petition filed by Ferro Corp.

DATES: Effective April 14, 1986; objections by May 14, 1986.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of November 13, 1985 (50 FR 46833), FDA announced that a petition (FAP 5B3695) had been filed by Ferro Corp., 7050 Krick Rd., Bedford, OH 44146, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) of the food additive regulations be amended to provide for the safe use of 2,4,di-*t*-butylphenyl 3,5-di-*t*-butyl-4-hydroxybenzoate as a stabilizer to prevent degradation from exposure to light of polymers intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an abbreviated environmental assessment under 21 CFR 25.31a(b)(1).

Any person who will be adversely affected by this regulation may at any time on or before May 14, 1986 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that