PART 1215—TRACKING AND DATA RELAY SATELLITE SYSTEM (TDRSS)

For reasons set out in the Preamble, 14 CFR part 1215 is amended to read as follows:

1. The authority citation for 14 CFR part 1215 continues to read as follows:

Authority: Sec. 203, Pub. L. 85-568, 72 Stat. 429, as amended; 42 U.S.C. 2473.

2. Appendix A is revised to read as follows:

Appendix A—Estimated Service Rates in 1991 Dollars for TDRSS Standard Services (Based on NASA Escalation Estimate)

TDRSS user service rates for services rendered in CY-91 based on current projections in 1991 dollars are as follows:

Single Access Service—Forward command, return telemetry, or tracking, or any combination of these, the base rate is $178.00 per minute for non-U.S. Government users.

Multiple Access Forward Service—Base rate is $39.00 per minute for non-U.S. Government users.

Multiple Access Return Service—Base rate is $12.00 per minute for non-U.S. Government users.

Dated: May 10, 1990.

Charles T. Force,

Associate Administrator for Space Operations.

[FR Doc. 90-11586 Filed 5-17-90; 8:45 am]

BILLING CODE 7510-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

15 CFR Part 2006

Procedures for Filing Petitions for Action Under Section 301 of the Trade Act of 1974, as Amended

AGENCY: Office of the United States Trade Representative.

ACTION: Final rule.

SUMMARY: The Office of the United States Trade Representative (USTR) hereby amends its regulations governing the filing of petitions for action under section 301 of the Trade Act of 1974, as amended, in response to unfair international trade practices. In most instances the revisions implement amendments to chapter 1 of title III of the Trade Act of 1974 contained in section 1301 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2411 et seq.).

EFFECTIVE DATE: June 18, 1990.

ADDRESSES: The mailing address for written submissions and correspondence is: Office of the Chairman, section 301 Committee, Office of the U.S. Trade Representative, 600 17th Street, NW., Washington, DC 20506. Material available for public inspection may be examined, by appointment, in the USTR Reading Room, room 101, at the same address.

FOR FURTHER INFORMATION CONTACT: A. Jane Bradley, Deputy General Counsel and Chairman, section 301 Committee, (202) 395-3432.

SUPPLEMENTARY INFORMATION: On May 23, 1989, USTR published a proposed rule in the **Federal Register** (54 FR 22310) which revised 15 CFR part 2006 to conform to amendments to chapter 1 of title III of the Trade Act of 1974 contained in section 1301 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2411 et seq.). The Trade Representative is required by section 309(a)(1) of the Trade Act of 1974, as amended (the "Trade Act"), to issue regulations concerning the filing of petitions and the conduct of investigations and hearings related to enforcement of U.S. rights under trade agreements and responses to certain foreign trade practices.

USTR provided a 30-day public comment period on the proposed regulations. In response to its request for comment, USTR received three comment letters. USTR analyzed these comments and determined that no changes to the proposed rules were appropriate. A summary of key issues raised by the public comments and the position USTR took with respect to the comments is set forth below.

General Overview

Section 2006.0(a) reflects amendments to section 301(a)(1) of the Trade Act, requiring the Trade Representative to act subject to the specific direction, if any, of the President. Paragraph (b) adds references to services, investment and intellectual property rights in addition to goods. Paragraph (c) adds to former provisions the requirement that petitions be filed during specified business hours, to enable proper docketing. Paragraph (d) provides a new telephone number for recorded information on pending petitions and investigations.

Section 2006.1(a)(7) provides guidance on information related to burden or restriction on U.S. commerce. Section 2006.1(a)(8) provides that if the foreign practice at issue is the subject of investigation under any other provision of law, USTR may decline to initiate an investigation or terminate a pending investigation.

Section 2006.1(b) has renumbered subparagraphs and adds new subparagraphs to provide guidance on information that should be included in petitions concerning unreasonable practices defined in section 301(d) that, while not necessarily in violation of, or inconsistent with, the international legal rights of the United States, are otherwise unfair and inequitable.

Section 2006.3 clarifies that the Section 301 Chairman shall publish in the **Federal Register** the Trade Representative's determination whether to initiate an investigation, pursuant to section 302(a)(2) of the Trade Act. That has been the customary practice since 1974. Paragraph (b) also adds a reference to requests for public hearings under section 302(a)(4)(B), identifying "interested persons" who may request such hearings, as defined in section 301(d) (9).

Section 2006.4 cites amended section 304(a)(1)(A) of the Trade Act.

Section 2006.5 adds the provision, reflected in section 303(a)(3) of the Trade Act, for the Trade Representative to receive information and advice from the petitioner and private sector advisers in preparing for consultations with the foreign government. It also adds a new paragraph (b) to conform to section 303(b) of the Trade Act, which permits a 90-day delay of a request for consultations with the foreign government.

Former § 2006.5(b) is renumbered as § 2006.6, concerning formal dispute settlement, and is amended to reflect the 150-day limit on consultations provided for in section 303(a)(2)(B) of the Trade Act.

Former § 2006.6, regarding termination or suspension of review, is deleted, because the Trade Act now requires investigations to be terminated with a determination under section 304(a)(2); see § 2006.12.

Section 2006.7 reflects provisions in sections 302(a)(4)(B) and 304(b)(1)(A) of the Trade Act, for public hearings on issues raised in a petition and prior to a determination under section 304(a)(1)(B) as to what action, if any, should be taken under section 301.

Section 2006.11 reflects the provisions of amended section 304 of the Trade Act, requiring a determination on what action, if any, should be taken if a determination is made that a practice is actionable under section 301.

Section 2006.12 reflects the time limits for section 302 investigations set forth in section 304(a)(2) of the Trade Act.

Section 2006.13 is renumbered and in paragraph (a) provides for public reading files to be made available at the Office of the United States Trade Representative. Paragraph (b) implements the provisions of section 308 of the Trade Act, providing for requests for information to be made to the section 301 Chairman. Paragraph (c) deletes a cross-reference to 15 CFR 2004.9 and 2004.10 with respect to duplication of documents, since those sections also will be revised.

Sections 2006.14 and 2006.15 reflect provisions in section 308 of the Trade Act for exempting certain business confidential information from public inspection. Section 2006.15(b) adds a new requirement that business confidential information be clearly marked as such in contrasting color ink.

Summary of Issues Raised by Public Comment

Two commenters raised issues related to petitions for action under section 301 of the Trade Act in response to a foreign government's systematic, persistent pattern of denial of worker rights. One commenter recommended that proposed § 2006.0(b) be changed to provide explicitly for persons who have knowledge of such worker rights violations, but who do not have a tangible economic interest affected by the outcome of the case in question, to file petitions under section 302 of the Trade Act. This commenter noted that the Congress, in amending section 301 in 1988, did not attempt to re-define "interested persons" for purposes of filing petitions under section 302(a)(1) of the Act. The statutory definition in section 301(d)(9) of the Act relates only to requesting and participating in public hearings and presenting views during the course of an investigation. The definition includes an illustrative, not exclusive, list of examples of interested persons. The regulations as proposed did not depart from that statutory definition in any way.

With respect to filing petitions under section 302 of the Trade Act, the regulations as proposed in § 2006.0(b) retained the provisions of the previous regulations (15 CFR 2006.0(b)), except that explicit references were added for services, investment matters and intellectual property rights. USTR did not propose changing the provision that allows persons with a "significant interest" to file petitions under section 302; the amended rule as proposed neither broadened nor narrowed the field of persons who may file petitions. Amended § 2006.0(b) also provides an illustrative, not exclusive, list of persons. Therefore, persons with knowledge and expertise about foreign labor practices thus are not precluded from filing a petition, or from presenting views or requesting a hearing in a section 302 investigation. Accordingly, § 2006.0(b) remains as proposed.

A second commenter suggested that USTR should not accept worker rights petitions that do not meet the substantive requirements of section 301 of the Trade Act. Specifically, this commenter endorsed the documentation requirements contained in § 2006.1(a)(7), as proposed, with respect to the burden or restriction on U.S. commerce that results from the foreign government act, policy or practice. The commenter also suggested that § 2006.1(b)(2)(v) of the proposed regulations be modified to provide that a petitioner must demonstrate a persistent pattern of conduct violating worker rights by providing specific and detailed factual information in order that a petition be considered adequate under §§ 2006.2 and 2006.3. It also suggested that, in the 45-day period prior to determining whether to initiate an investigation, the USTR should determine whether the substantive provisions of section 301(d)(3)(C) would prevent an eventual determination that an alleged practice is "unreasonable". In making these suggestions the commenter fails to recognize that the USTR's determination under section 302(a)(2) of the Trade Act—whether to initiate an investigation of issues raised in a petition—differs substantially from a determination, under section 304 of the Act, that a practice is actionable under section 301. Section 304(a)(1) requires that such determinations be made on the basis of an investigation initiated and consultations held with the foreign government, not on the basis of a 45-day review of the sufficiency of a petition on which to base such investigation. Accordingly, the regulations as proposed were not modified in response to this commenter's suggestions. Similarly, the commenter's view that the USTR should exercise caution in addressing worker rights issues under section 301 did not warrant any change in the proposed regulations.

The second commenter also proposed that § 2006.0(d) of the proposed regulations be amended to require that USTR publish in the **Federal Register**, within 5 days of the filing of a petition, a notice that the petition had been filed. It was this commenter's view that such public notice would improve the USTR's initial evaluation of a petition by enabling interested parties to provide relevant facts. The commenter suggested that this was especially necessary for petitions involving worker rights issues. The USTR considered this proposal and, with the advice of the interagency Section 301 Committee, decided not to amend the proposed regulations. Under current practice, recorded information on petitions filed under section 302 is updated daily; the telephone number of that information line (202/395-3871) has been published, and is repeated in the amended regulations. As soon as a new petition has been filed, the telephone recording reflects that information. Any interested person wishing to bring factual information to the attention of the Section 301 Committee when a petition is filed may do so, but the purpose of the 45-day evaluation period is to determine whether there is sufficient basis for initiating an investigation; it is not an investigation in itself. Once an investigation is initiated, public comment is routinely invited and examined.

A third commenter suggested that the proposed regulations be amended to include a requirement that each notice of public hearing, published in accordance with § 2006.7(d), regarding potential section 301 action address the issue of retroactive imposition of such action. In particular, this commenter seeks advance notice of which products targeted for potential import restrictions will be subject to potential retroactive restrictions, and an opportunity for interested persons to express views on the issue of retroactivity. The commenter notes that this notice procedure has been followed by USTR in the past. The USTR has decided that an amendment to the proposed regulations that would govern the substantive content of public hearing notices is inappropriate and that customary USTR practice should continue with respect to the conduct of public hearings on section 301 matters. Therefore, § 2006.7(d) of the regulations remains as proposed.

Compliance with Executive Orders 12291 and 12612, the Regulatory Flexibility Act (5 U.S.C. 601, et seq.), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

The Trade Representative has determined that this rule does not constitute a "major rule" for the purposes of Executive Order 12291, because it does not fall within the categories described in section 1(b) of that Executive Order. Accordingly a Regulatory Impact Analysis was not prepared.

Because this rule will have no direct regulatory impact on the public, the Trade Representative certifies that this rule will not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared.

The information collection requirement contained in 15 CFR part 2006 has been approved for use through March 3l, 1993, by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) and has been assigned OMB control number 0350–0004. USTR estimates an average of 100 burden hours to prepare a petition under section 302 of the Trade Act. Any comments concerning the accuracy of this burden may be sent to USTR at the above address or to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20530, Attention Paperwork Reduction Project 0350–0004.

Finally, the Trade Representative determines that this rule has insufficient Federalism implications to warrant preparation of a Federalism Assessment under E.O. 12612.

Carla A. Hills,

United States Trade Representative.

Pursuant to the authority set forth in section 309(a)(1) of the Trade Act of 1974, as amended (19 U.S.C. 2419), part 2006 of title 15 of the Code of Federal Regulations is revised to read as follows:

PART 2006—PROCEDURES FOR FILING PETITIONS FOR ACTION UNDER SECTION 301 OF THE TRADE ACT OF 1974, AS AMENDED

Authority: Sec. 309(a)(1), Trade Act of 1974, as amended by sec. 1301 of the Omnibus Trade and Competitiveness Act of 1988, Pub. L. 100–418, 102 Stat. 1176 (19 U.S.C. 2419).

§ 2006.0 Submission of petitions requesting action under section 301.

(a) Section 301 of the Trade Act of 1974, as amended (the "Trade Act") requires the United States Trade Representative, subject to the specific direction, if any, of the President regarding such action, to take appropriate and feasible action in response to a foreign government's violation of a trade agreement, or any other international agreement the breach of which burdens or restricts United States commerce; and authorizes the Trade Representative, subject to the specific direction of the President, if any, to take action to obtain the elimination of acts, policies, and practices of foreign countries that are unjustifiable, unreasonable, or discriminatory and burden or restrict United States commerce. Section 302 of the Trade Act provides for petitions to be filed with the Trade Representative requesting that action be taken under section 301. Petitions filed under section 302 will be treated as specified in these regulations.

(b) Petitions may be submitted by an interested person. An interested person is deemed to be any party who has a significant interest affected by the act, policy, or practice complained of, for example: A producer, a commercial importer, or an exporter of an affected product or service; a United States person seeking to invest directly abroad, with implications for trade in goods or services; a person who relies on protection of intellectual property rights; a trade association, a certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production or wholesale distribution in the United States of a product or service so affected; or any other private party representing a significant economic interest affected directly by the act, policy or practice complained of in the petition.

(c) The petitioner shall submit 20 copies of the petition in English, clearly typed, photocopied, or printed to: Chairman, Section 301 Committee, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20506.

To ensure proper docketing, petitions may be filed only during the following hours on days when the Federal Government is open for business: between 9 a.m. and 12 noon and 1 p.m. to 5 p.m.

(d) Recorded information on section 302 petitions and investigations may be obtained by calling (202) 395–3871.

§ 2006.1 Information to be included in petition.

(a) *General information.* Petitions submitted pursuant to section 302 of the Trade Act shall clearly state on the first page that the petition requests that action be taken under section 301 of the Trade Act and shall contain allegations and information reasonably available to petitioner in support of the request, in the form specified below. Petitioners for whom such information is difficult or impossible to obtain shall provide as much information as possible, and assistance in filing their petition may be obtained through the Chairman of the Section 301 Committee. All petitions shall:

(1) Identify the petitioner and the person, firm or association, if any, which petitioner represents and describe briefly the economic interest of the petitioner which is directly affected by the failure of a foreign government or instrumentality to grant rights of the United States under a trade agreement, or which is otherwise directly affected economically by an act, policy, or practice which is actionable under section 301.

(2) Describe the rights of the United States being violated or denied under the trade agreement which petitioner seeks to enforce or the other act, policy or practice which is the subject of the petition, and provide a reference to the particular part of section 301 related to the assertion in the petition.

(3) Include, wherever possible, copies of laws or regulations which are the subject of the petition. If this is not possible, the laws and regulations shall be identified with the greatest possible particularity, such as by citation.

(4) Identify the foreign country or instrumentality with whom the United States has an agreement under which petitioner is asserting rights claimed to be denied or whose acts, policies or practices are the subject of the petition.

(5) Identify the product, service, intellectual property right, or foreign direct investment matter for which the rights of the United States under the agreement claimed to be violated or denied are sought, or which is subject to the act, policy or practice of the foreign government or instrumentality named in paragraph (a)(4) of this section.

(6) Demonstrate that rights of the United States under a trade agreement are not being provided; or show the manner in which the act, policy or practice violates or is inconsistent with the provisions of a trade agreement or otherwise denies benefits accruing to the United States under a trade agreement, or is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce.

(7) Provide information concerning

(i) The degree to which U.S. commerce is burdened or restricted by the denial of rights under a trade agreement or by any other act, policy, or practice which is actionable under section 301,

(ii) The volume of trade in the goods or services involved, and

(iii) A description of the methodology used to calculate the burden or restriction on U.S. commerce.

(8) State whether petitioner has filed or is filing for other forms of relief under the Trade Act or any other provision of law. If the foreign government practice at issue is the subject of investigation under any other provision of law, the USTR may determine not to initiate an investigation; or if the same matter is subsequently subject to investigation under some other provision of law, USTR may terminate the section 302 investigation.

(b) *Additional specific information—(1) Subsidies.* If the petition includes an assertion that subsidy payments are having an adverse effect upon products or services of the United States in United States' markets or in other foreign markets, it shall include an analysis supporting any claim that the subsidy complained of is inconsistent with any trade agreement and describe the manner in which it burdens or restricts United States commerce.

(2) *Certain unreasonable practices.* If the petition asserts that an unreasonable practice defined in section 301(d) (3) denies fair and equitable opportunities for the establishment of an enterprise, or denies adequate and effective protection of intellectual property rights, or denies fair and equitable market opportunities, and burdens or restricts U.S. commerce, the petition should include, to the extent possible, identification of reciprocal opportunities in the United States that may exist for foreign nationals and firms; and

(i) If the petition asserts that fair and equitable opportunities for the establishment of an enterprise in a foreign country are denied, the petition shall

(A) Describe in detail the nature of any foreign direct investment proposed by the United States person, including estimates of trade in goods and services that could reasonably be expected to result from that investment,

(B) Indicate the manner in which the foreign government is denying the United States person a fair and equitable opportunity for the establishment of an enterprise,

(C) State whether action by the foreign government is in violation of or inconsistent with the international legal rights of the United States, citing the relevant provisions of any international agreements to which the United States and the foreign government are party, and

(D) To the extent possible, provide copies of all relevant foreign government statutes, regulations, directives, public policy statements and correspondence with the United States person with respect to the proposed investment.

(ii) If the petition asserts that fair and equitable provision of adequate and effective protection of intellectual property rights in a foreign country is denied, the petition shall

(A) Identify the intellectual property right for which protection has been sought,

(B) Indicate how persons who are not citizens or nationals of such foreign country are denied the opportunity to secure, exercise, and enforce rights relating to patents, process patents, registered trademarks, copyrights, or mask works, and

(C) Provide information on the relevant laws of the foreign country and an analysis of how the foreign country's law or policies conform to provisions of international law or international agreements to which both the United States and the foreign country are parties;

(iii) If the petition asserts that fair and equitable market opportunities are denied through the toleration by a foreign government of systematic private anticompetitive activities, the petition shall specifically

(A) Identify the private firms in the foreign country whose systematic anticompetitive activities have the effect of restricting access of United States goods to purchasing by those firms, inconsistent with commercial considerations,

(B) Describe in detail the private activities in question,

(C) State whether evidence of such activities has been provided (by petitioner or others) to the appropriate foreign government authorities, and describe the evidence indicating that the foreign government is aware of and supports, encourages, or tolerates such activities,

(D) Describe the duration and pervasiveness of such activities,

(E) Indicate whether such activities are inconsistent with the laws of the foreign country involved, making specific reference to any laws in question, and

(F) Indicate whether the foreign government's enforcement of (or failure to enforce) its relevant laws with respect to the private activities at issue is inconsistent with its enforcement practices in other situations;

(iv) If the petition asserts that an act, policy or practice, or combination thereof constitutes export targeting, the petition shall

(A) Identify the specific enterprise, industry, or group thereof which has been assisted in becoming more competitive in the export of the affected product or products,

(B) Describe the elements of the foreign government's plan or scheme consisting of coordinated actions to assist that enterprise, industry, or group, and

(C) Provide information on how and to what degree exports of the affected products by that enterprise, industry, or group have become more competitive as a result of the foreign government's plan or scheme; and

(v) if the petition asserts that an act, policy or practice, or combination thereof constitutes a persistent pattern of conduct that denies workers the right of association or the right to organize and bargain collectively, or permits forced or compulsory labor, or fails to provide a minimum age for employment of children or standards for minimum wages, hours, and occupational safety and health of workers, the petition shall

(A) Describe the rights or standards denied and provide information on the laws, policies and practices of the foreign country involved, if any, that relate to such rights or standards, and

(B) Indicate, to the extent such information is available to petitioner, whether the foreign country has taken, or is taking, actions that demonstrate a significant and tangible overall advancement in providing these rights or standards.

§ 2006.2 Adequacy of the petition.

If the petition filed pursuant to section 302 does not conform substantially to the requirements of §§ 2006.0 and 2006.1, the Chairman of the Section 301 Committee may decline to docket the petition as filed and, if requested by petitioner, return it to petitioner with guidance on making the petition conform to the requirements, or may nevertheless determine that there is sufficient information on which to proceed to a determination whether to initiate an investigation.

§ 2006.3 Determinations regarding petitions.

Within 45 days after the day on which the petition is received, the Trade Representative shall determine, after receiving the advice of the Section 301 Committee, whether to initiate an investigation.

(a) If the Trade Representative determines not to initiate an investigation, the Section 301 Chairman shall notify the petitioner of the reasons and shall publish notice of the negative determination and a summary of the reasons therefor in the **Federal Register**.

(b) If the Trade Representative determines to initiate an investigation regarding the petition, the Section 301 Chairman shall publish a summary of the petition in the **Federal Register**, and provide an opportunity for the presentation of views concerning the issues, including a public hearing if requested. A hearing may be requested by the petitioner or any interested person, including but not limited to a domestic firm or worker, a representative of consumer interests, a United States product exporter, or any industrial user of any goods or services that may be affected by actions taken under section 301 with respect to the act, policy or practice that is the subject of the petition.

§ 2006.4 Requests for information made to Foreign Governments or Instrumentalities.

If the U.S. Trade Representative receives a petition alleging violations of any international agreement, he will notify the foreign government or instrumentality of the allegations and may request information, in English, necessary to a determination under section 304(a)(1)(A) of the Trade Act. The Trade Representative may proceed on the basis of best information available if, within a reasonable time, no information is received in response to the request.

§ 2006.5 Consultations with the Foreign Government.

(a) If the Trade Representative determines to initiate an investigation on the basis of a petition he shall, on behalf of the United States, request consultations with the foreign country concerned regarding the issues involved in such an investigation. In preparing United States presentations for consultations and dispute settlement proceedings, the Trade Representative shall seek information and advice from the petitioner and any appropriate private sector representatives, including committees established pursuant to section 135 of the Trade Act.

(b) To ensure an adequate basis for consultation, the Trade Representative may, after consulting with the petitioner, delay requests for consultations for up to 90 days in order to verify or improve the petition. If consultations are delayed, the time limits referred to in § 2006.12 below shall be extended for the period of such delay.

§ 2006.6 Formal dispute settlement.

If the issues in a petition are covered by a trade agreement between the United States and the foreign government involved and a mutually acceptable resolution cannot be reached within the consultation period provided for in the agreement, or by 150 days after consultations begin, whichever is earlier, the Trade Representative shall institute the formal dispute settlement proceedings, if any, provided for in the trade agreement.

§ 2006.7 Public hearings.

(a) A public hearing for the purpose of receiving views on the issues raised in a petition shall be held by the Section 301 Committee:

(1) Within 30 days after the date that an investigation is initiated under section 302(a)(2) if a hearing is requested in the petition (or later, if agreed to by the petitioner); or

(2) Within a reasonable period if, after the investigation is initiated, a timely request is made by the petitioner, or any other interested person as defined in § 2006.3(b).

(b) Prior to making a recommendation on what action, if any, should be taken in response to issues raised in the petition, the Section 301 Committee shall hold a public hearing upon the written request of any interested person. An interested person should submit an application to the Section 301 Chairman stating briefly the interest of the person requesting the hearing, the firm, person, or association he represents, and the position to be taken. A hearing so requested shall be held:

(1) Prior to determining what action should be taken under section 301, and after at least 30 days' notice; or

(2) Within 30 days after the determination of action is made, if the Trade Representative determines that expeditious action is required.

(c) After receipt of a request for a public hearing under sections 302(a)(4)(B) or 304(b)(1)(A) of the Trade Act, the Chairman of the Section 301 Committee will notify the applicant whether the request meets the requirements of this part, and if not, the reasons therefor. If the applicant has met the requirements of this part, he will receive at least 30 days' notice of the time and place of the hearing.

(d) Notice of public hearings to be held under sections 302(a)(4)(B) and 304(b)(1)(A) shall be published in the **Federal Register** by the Chairman of the Section 301 Committee.

§ 2006.8 Submission of written briefs.

(a) In order to participate in the presentation of views either at a public hearing or otherwise, an interested person must submit a written brief before the close of the period of submission announced in the public notice. The brief may be, but need not be, supplemented by the presentation of oral testimony in any public hearing scheduled in accordance with § 2006.7.

(b) The brief shall state clearly the position taken and shall describe with particularity the supporting rationale. It shall be submitted in 20 copies, which must be legibly typed, printed, or duplicated.

(c) In order to assure each interested person an opportunity to contest the information provided by other parties, the Section 301 Committee will entertain rebuttal briefs filed by any interested person within a time limit specified in the public notice. Rebuttal briefs should be strictly limited to demonstrating errors of fact or analysis not pointed out in the briefs or hearing and should be as concise as possible.

§ 2006.9 Presentation of oral testimony at public hearings.

(a) A request by an interested person to present oral testimony at a public hearing shall be submitted in writing before the close of the period of submission announced in the public notice and shall state briefly the interest of the applicant. Such request will be granted if a brief has been submitted in accordance with § 2006.8.

(b) After consideration of a request to present oral testimony at a public hearing, the Chairman of the Section 301 Committee will notify the applicant whether the request conforms to the requirements of § 2006.8(a) and, if it does not, will give the reasons. If the applicant has submitted a conforming request he shall be notified of the time and place for the hearing and for his oral testimony.

§ 2006.10 Waiver of requirements.

To the extent consistent with the requirements of the Trade Act, the requirements of §§ 2006.0 through 2006.3 and 2006.8 may be waived by the Trade Representative or the Chairman of the Section 301 Committee upon a showing of good cause and for reasons of equity and the public interest.

§ 2006.11 Consultations before making determinations.

Prior to making a determination on what action, if any, should be taken in regard to issues raised in the petition, the Trade Representative shall obtain advice from any appropriate private sector advisory representatives, including committees established pursuant to section 135 of the Trade Act, unless expeditious action is required, in which case he shall seek such advice after making the determination. The Trade Representative may also request the views of the International Trade Commission regarding the probable economic impact of the proposed action.

§ 2006.12 Determinations; Time limits.

On the basis of the petition, investigation and consultations, and after receiving the advice of the Section 301 Committee, the Trade Representative shall determine whether U.S. rights under any trade agreement are being denied, or whether any other act, policy, or practice actionable under section 301 exists and, if so, what action (if any) should be taken under section 301. These determinations shall be made:

(a) In the case of an investigation involving a trade agreement (other than the agreement on subsidies and countervailing measures described in section 2(c)(5) of the Trade Agreements Act of 1979), within 30 days after the dispute settlement procedure concludes, or 18 months after the initiation of the investigation, whichever is earlier.

(b) In all other cases, within 12 months after initiating an investigation.

§ 2006.13 Information open to public inspection.

(a) With the exception of information subject to § 2006.15, an interested person may, upon advance request, inspect at a public reading room in the Office of the United States Trade Representative:

(1) Any written petition, brief, or similar submission of information (other than that to which confidentiality applies) made in the course of a section 302 proceeding;

(2) Any stenographic record of a public hearing held pursuant to section 302 or 304.

(b) In addition, upon written request submitted in accordance with section 308 of the Trade Act, any person may obtain from the Section 301 Chairman the following, to the extent that such information is available to the Office of the U.S. Trade Representative or other Federal agencies:

(1) Information on the nature and extent of a specific trade policy or practice of a foreign government or instrumentality with respect to particular goods, services, investment, or intellectual property rights;

(2) Information on United States rights under any trade agreement and the remedies which may be available under that agreement and under the laws of the United States; and

(3) Information on past and present domestic and international proceedings or actions with respect to the policy or practice concerned.

(c) An appropriate fee will be charged for duplication of documents requested under § 2006.13.

§ 2006.14 Information not available.

If the Office of the U.S. Trade Representative does not have, and cannot obtain from other Federal agencies, information requested in writing by any person, the Section 301 Chairman shall, within 30 days after the receipt of the request:

(a) Request the information from the foreign government involved; or

(b) Decline to request the information and inform the person in writing of the reasons for the refusal.

§ 2006.15 Information exempt from public inspection.

(a) The Chairman of the Section 301 Committee shall exempt from public inspection business information submitted in confidence if he determines that such information involves trade secrets or commercial and financial information the disclosure of which is not authorized by the person furnishing such information nor required by law.

(b) An interested person requesting that the Chairman exempt from public inspection confidential business information submitted in writing must certify in writing that such information is business confidential, the disclosure of such information would endanger trade secrets or profitability, and such information is not generally available. The information submitted must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page on each copy, and shall be accompanied by a nonconfidential summary of the confidential information.

(c) The Section 301 Chairman may use such information, or make such information available (in his own discretion) to any employee of the Federal Government for use in any investigation under section 302, or make such information available to any other person in a form which cannot be associated with, or otherwise identify, the person providing the information.

(d) The Section 301 Chairman may deny a request that he exempt from public inspection any particular business information if he determines that such information is not entitled to exemption under law. In the event of a denial, the interested person submitting the particular business information will be notified of the reasons for the denial and will be permitted to withdraw the submission.

[FR Doc. 90-11564 Filed 5-17-90; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

RIN 0960-AC86

Supplemental Security Income for the Aged, Blind, and Disabled, Treatment of Augmented Veterans Benefits, Anderson, et al. v. Sullivan

AGENCY: Social Security Administration, HHS.

ACTION: Interim final rule with comment period.

SUMMARY: These interim final regulations, which are effective on publication, set out our policy, under the supplemental security income (SSI) program, regarding the treatment of veterans benefits that are increased ("augmented") to provide for dependents. If the SSI claimant or recipient is a veteran or a veteran's surviving spouse receiving a veterans benefit that includes an augmented portion ("dependent's portion"), the dependent's portion of the veterans benefit is not counted as unearned income to the SSI claimant or recipient. The United States District Court in *Anderson, et al.* v. *Sullivan*, No. CV-88-036-GF (D. Mont. Nov. 21, 1989), ordered the publication of this policy in interim final regulations.

DATES: Interim final rule effective May 18, 1990; comments must be received on or before July 17, 1990.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, MD 21235, or delivered to the Office of Regulations, Social Security Administration, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Duane Heaton, Legal Assistant, Office of Regulations, Social Security

Administration, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965–8470.

SUPPLEMENTARY INFORMATION:

Background

Section 1612 of the Social Security Act (the Act) specifies certain items that are included as earned and unearned income under the SSI program. Section 1612(a)(2)(B) provides that unearned income includes, among other things, payments received as an annuity, pension, retirement, or disability benefit, including veterans compensation and pension.

Prior to November 1981, the Social Security Administration (SSA), with regard to veterans benefits that were augmented for dependents, counted the entire benefit, including the augmented portion, as income to the veteran or veteran's surviving spouse for SSI purposes. In 1981, SSA changed its policy and published a ruling (SSR 82–31, effective November 1, 1981), which explained that the dependent's portion of the augmented veterans benefit would not be counted as unearned income to the veteran or the veteran's surviving spouse but as unearned income to the dependent.

SSA was challenged in *Anderson, et al.* v. *Sullivan*, No. CV–88–036–GF (D. Mont. Nov. 21, 1989) for not applying the policy to a nationwide class of veterans pensions known as "protected pensions." The protected pensions under Public Law 95–588 include pensions which are means-tested pensions and paid under provisions that predate the current improved pension program. In *Anderson*, the plaintiff was a veteran's widow who received a veterans protected pension and SSI disability benefits. Her pension was augmented due to the presence of a dependent in her household. SSA considered the full amount of the veterans pension, including the dependent's portion, as income to Ms. Anderson in determining the amount of her SSI benefits. She filed suit against the Secretary of Health and Human Services seeking relief from our practice of counting the dependent's portion of her veterans protected pension as income to her. SSA had counted this as income to her because of incomplete information received from the computer match between the Department of Veterans Affairs and SSA with regard to veterans protected pensions. On November 21, 1989, the court in *Anderson* ordered the Secretary to promulgate, within 6 months, interim final regulations that provide that the augmented portion of a veterans pension is not to be counted as unearned income to the veteran or the veteran's surviving spouse.

Provisions of the Regulations

Consistent with the court order, we have revised § 416.1123 of the current regulations. The regulations set out how we count unearned income. We have added a new paragraph (e) to explain that if you receive a veterans benefit that includes an amount paid to you because of a dependent, we do not count as your unearned income the amount paid to you because of the dependent.

Simultaneous Publication of Related NPRM with these Interim Final Regulations

We are publishing a related NPRM regarding the SSI treatment of the dependent's portion as income to the dependent in this issue of the **Federal Register**. By publishing these regulations simultaneously, we are presenting our complete policy on the treatment of an augmented veterans benefit in the SSI program.

Regulatory Procedures

Justification for Interim Final Rules

The Department, even when not required by statute, as a matter of policy generally follows the Administrative Procedure Act (APA) notice of proposed rulemaking and public comment procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest.

We have determined that under 5 U.S.C. 553(b)(3)(B), good cause exists for waiver of proposed rulemaking in these interim final regulations. Since we are implementing a court order mandating specific changes to the regulations, we believe notice and comment procedures are impracticable. The *Anderson* court has ordered us to issue these interim final regulations within 6 months of the date of the court order. That time is too short to allow prior notice and opportunity for comment. Therefore, these regulations are being issued as interim final rules and will be effective on the date of publication in the **Federal Register.**

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291. The interim final regulations are nondiscretionary. Although costs could not be estimated with precision, the amount will be well under the $100 million threshold for an impact analysis. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

These interim final regulations impose no reporting/recordkeeping requirements requiring the Office of Management and Budget clearance.

Regulatory Flexibility Act

We certify that these interim final regulations will not have a significant economic impact on a substantial number of small entities because these regulations will affect only individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act of 1980, is not required.

(Catalog of Federal Domestic Assistance Programs No. 13.807–Supplemental Security Income.)

List of Subjects in 20 CFR Part 416

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

Dated: April 2, 1990.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: April 27, 1990.

Louis W. Sullivan,

Secretary of Health and Human Services.

PART 416—[AMENDED]

For the reasons set out in the preamble, part 416 of chapter III of title 20, Code of Federal Regulations, is amended as follows:

1. The authority citation for subpart K of part 416 continues to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; Sec. 211 of Pub. L. 93–66, 87 Stat. 154; Sec. 2639 of Pub. L. 98–369, 98 Stat. 1144.

2. Section 416.1123 is amended by adding a new paragraph (e) to read as follows:

§ 416.1123 How we count unearned income.

* * * * *

(e) *Veterans benefits.* If you receive a veterans benefit that includes an amount paid to you because of a dependent, we do not count as your unearned income the amount paid to you because of the dependent.

* * * * *

[FR Doc. 90-11584 Filed 5-17-90; 8:45 am]
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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

Surface Coal Mining and Reclamation Operations Under a Federal Program for Tennessee

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

ACTION: Final rule, technical amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the Department of the Interior (DOI) is making a technical amendment to the final rule promulgating a Federal program for the regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in the State of Tennessee, which was published in the Federal Register on October 1, 1984. The purpose of the amendment is to correct a cross-referencing error, and to restore a provision inadvertently omitted concerning backfilling and grading timing requirements.

EFFECTIVE DATE: May 18, 1990.

FOR FURTHER INFORMATION CONTACT: Suzanne Hudak, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: 202-208-2700 (Commercial) or 268-2700 (FTS).

SUPPLEMENTARY INFORMATION:

I. Background.
II. Discussion of Amendment.
III. Procedural Matters.

I. Background

On October 1, 1984, OSM promulgated a Federal program for the regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in Tennessee under section 504(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.* (49 FR 38874). Upon promulgation of a Federal regulatory program, the Secretary becomes the regulatory authority. Through delegation, the Director of OSM is the official directly responsible for the implementation of a Federal regulatory program.

Federal programs are promulgated by means of cross-referencing the permanent program regulations in 30 CFR subchapters A, F, G, H, J, K, L, and M, which set the substantive standards. The Federeal regulatory program for Tennessee is found in 30 CFR part 942. Sections of part 942 on various topics cross-reference the counterpart permanent program rules on those topics. Cross-referencing avoids duplication of the full text of the permanent regulatory program rules for each Federal program.

Where a particular permanent program regulation requires modification for use in the Tennessee Federal program, a paragraph or paragraphs are added to modify the permanent regulatory program standards applicable in Tennessee or to add requirements or standards. This is one means of implementing the mandate of section 504(a) of SMCRA that in promulgating a Federal program the Secretary take into consideration relevant conditions in the State.

II. Discussion of Amendment

The permanent program performance standards contained in 30 CFR 816.102 set forth the general requirements for backfilling and grading of disturbed areas. In establishing backfilling and grading performance standards for use in the Tennessee Federal program, 30 CFR 942.816(e) states:

> In addition to the requirements of § 816.102(a)(6) of this chapter, backfilling and grading shall proceed in accordance with the following timing requirements * * *.

The paragraph should read: "In addition to the requirements of § 816.102 of this chapter, * * *." The reference to § 816.102(a)(6) was a cross-referencing error to a non-existent provision. This rulemaking corrects that error.

The October 1984 rulemaking at 30 CFR 942.816 also included paragraph 942.816(e)(3) which stated:

> The Office may grant additional time for rough backfilling and grading if the permittee can demonstrate, through the detailed written analysis under § 780.18(b)(3) of this chapter, that additional time is necessary.

Paragraph 942.816(e)(3) appeared in the July 1985, 1986, and 1987 editions of the Code of Federal Regulations, 30 CFR part 700 to End, but was inadvertently omitted from the 1988 and 1989 editions by the Office of the Federal Register. This rulemaking corrects the Federal Register's inadvertent omission of the rule at 30 CFR 942.816(e)(3) from the Code of Federal Regulations.

These corrections are considered technical amendments and no change in the meaning or application of the Tennessee Federal program is intended.

III. Procedural Matters

Executive Order 12291 and the Regulatory Flexibility Act

OSM has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291 because the rule is an administrative correction and has no economic effect on the public. For the same reason this document will not have a significant economic effect on a substantial number of small entities and does not require a regulatory flexibility analysis under the Regulatory Flexibility Act.

National Environmental Policy Act

This rulemaking is not a major Federal action, but an administrative rule covered under previous rulemakings. Therefore, an environmental assessment is not required for this rulemaking which is covered under the environmental assessment and environmental impact statement prepared for the previous rulemaking.

Federal Paperwork Reduction Act

It has been determined that the information collection requirements do not change due to the corrections of this rulemaking and therefore it is exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and does not require clearance by the Office of Management and Budget.

List of Subjects in 30 CFR Part 942

Coal mining, Intergovernmental relations, Surface mining, Underground mining, Reporting and recordkeeping requirements.

Accordingly, OSM is amending 30 CFR part 942 as set forth below.

Dated: May 11, 1990.

Dave O'Neal,
Assistant Secretary, Land and Minerals Management.

PART 942—TENNESSEE

1. The authority citation for part 942 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, as amended; and Pub. L. 100-34.

2. Section 942.816 is amended by revising paragraph (e) and restoring paragraph (e)(3) as follows:

§ 942.816 Performance standards—surface mining activities.

* * * * *

(e) Backfilling and grading: General requirements. In addition to the requirements of § 816.102 of this chapter, backfilling and grading shall proceed in accordance with the following timing requirements:

(1) * * *

(2) * * *

(3) The Office may grant additional time for rough backfilling and grading if the permittee can demonstrate, through the detailed written analysis under § 780.18(b)(3) of this chapter, that additional time is necessary.

* * * * *

[FR Doc. 90-11587 Filed 5-17-90; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3764]

Approval and Promulgation of Implementation Plans; Maine Ozone Attainment Plan; Control of Gasoline Volatility

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Maine. These revisions will reduce emissions of volatile organic compounds from gasoline by reducing the Reid Vapor Pressure (RVP) of gasoline statewide. EPA is also finding that Maine's RVP regulations are "necessary to achieve" the national ambient air quality standards (NAAQS) in its ozone nonattainment areas and are excepted from federal preemption under section 211(c)(4) of the Clean Air Act (the Act). The intended effect of this action is to make reasonable further progress toward attainment of the ozone standard in the State of Maine as expeditiously as practicable as required under the Act.

EFFECTIVE DATE: This rule will become effective on June 18, 1990.

ADDRESSES: Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, room 2311, JFK Federal Building, Boston, MA 02203; and the Maine Department of Environmental Protection, Upham Building, 71 Hospital Street, Augusta, ME 04333.

FOR FURTHER INFORMATION CONTACT: Jennifer York-Olsen (617) 565-3220, FTS: 835-3220.

SUPPLEMENTARY INFORMATION: This **Federal Register** notice describes EPA's decision to approve revisions to the Maine SIP which limit the volatility of gasoline during the summertime ozone season from May 1 to September 15. While the regulation contained in Maine's SIP submission called for implementation in 1989, EPA was unable to approve the rule nor was it enforceable until Maine submitted additional necessary revisions. Therefore, EPA's decision to approve the SIP revisions apply in 1990 and every year thereafter. The remainder of this preamble is divided into four sections. The first provides the background for this action, with respect to both chronology and the broad issues involved. The second section presents today's action and EPA's rationale. The third section summarizes the comments received on the proposed action and EPA's response to them. The final section discusses Maine's revision to the test methods and definitions sections of the regulation to rectify certain deficiencies identified and discussed in EPA's proposed rulemaking notice.

Background

On November 12, 1987, the Commissioners of the Northeast States for Coordinated Air Use Management (NESCAUM) signed a Memorandum of Understanding expressing their intention to reduce the Reid Vapor Pressure (RVP) of gasoline to 10.0 pounds per square inch (psi) starting in the summer of 1988 and to 9.0 psi in the summer of 1989 and continuing every ozone season thereafter. The State of Maine held a hearing on April 7, 1988 on a regulation to implement this strategy. Since there were delays in adopting necessary regulations, the 1988 limit of 10.0 psi was eliminated. The regulation could not be enforced in 1989 because it was not yet approved as a SIP revision by EPA. The Maine regulation limiting RVP to 9.0 psi from May 1 to September 15 will be enforceable starting in 1990, and continuing each year thereafter.

Maine adopted its regulation on August 10, 1988 and submitted it to EPA as a SIP revision on February 14, 1989. On May 3, 1989, EPA received a supplemental submittal from the state containing additional information on the state's VOC inventory. The Notice of Proposed Rulemaking for Maine's SIP revision was published on September 11, 1989 (54 FR 37479). The **Federal Register** notice required that the state revise its RVP regulation and submit an official copy with the revisions to EPA prior to EPA taking final action on the SIP revision. EPA received an official copy of the state's revised Department Regulation chapter 119 RVP regulation on December 6, 1989, containing the changes to the definitions and test methods sections. Since EPA was not able to take final action on the Maine submittal prior to the end of the 1989 ozone season, the rule will first be in effect on May 1, for the 1990 ozone season.

EPA published a notice of final rulemaking on March 22, 1989 (54 FR 11868) which requires the control of the volatility of gasoline nationally. The rule requires that in the Northeast the standard would be 10.5 psi beginning in the summer of 1989. The federal standard will be enforced each year beginning June 1 (for retail users and other end-users of gasoline) of May 1 (for all other points in the distribution system) except in 1989 when enforcement began June 30, 1989, and June 1, 1989 (100 days and 70 days, respectively, after the publication date of the final rule). Enforcement ends at all points in the system on September 15 of each year. The EPA regulation would normally preempt the state provision under section 211(c)(4) of the Act. However, section 211(c)(4)(C) of the Act provides for approval of state control of fuel or fuel additives if the control is part of the SIP and is necessary to achieve the primary or secondary national ambient air quality standard (NAAQS) which the plan implements. In its March 22, 1989, Notice, EPA made specific note of the NESCAUM states' initiatives and the conditions for EPA approval of state RVP regulations.

On September 11, 1989, EPA published a **Federal Register** notice (54 FR 37479) proposing approval of the Maine SIP revision. EPA also proposed to find that these revisions were "necessary" to achieve the NAAQS for ozone within the meaning of section 211(c)(4)(C) of the Act and, thus, meet the requirements for an exception to federal preemption.

Description of Today's Action

EPA today approves revisions to the Maine SIP which limit gasoline volatility statewide to 9.0 psi between May 1 and September 15, 1990 and each year thereafter. EPA is approving the program, including any waivers the state might issue under its authority.

EPA is also explicitly finding that the Maine revisions are "necessary to achieve" the NAAQS in the State of Maine within the meaning of section 211(c)(4)(C) of the Act. This means that Maine's RVP regulations are not preempted by the federal RVP regulations promulgated in March 22, 1989.

In approving the Maine RVP SIP revisions, EPA must consider requirements imposed by two different sections of the Clean Air Act. As with all SIP revisions, section 110 provides