peaches. Because these rates are applied to actual shipments, they must be established at rates which will provide sufficient income to pay the Committees' expected expenses.

The Nectarine Administrative Committee met on May 4, 1994, and unanimously recommended total expenses of $3,844,635 for the 1994–95 fiscal year. In comparison, the 1993–94 fiscal year expenses amount was $3,804,962, representing a $39,673 increase in expenses from the 1993–94 fiscal year.

The Committee also unanimously recommended an assessment rate of $0.1825 per 25-pound container or equivalent for the 1994–95 fiscal year, which is the same assessment rate that was approved for the 1993–94 fiscal year. The assessment rate, when applied to anticipated shipments of 18,144,000 25-pound containers or equivalent of nectarines would yield $3,311,280 in assessment income. Adequate funds exist in the Committee's reserve to cover additional expenses.

Major expense categories for the 1994–95 nectarine budget include $447,118 for salaries and benefits, $1,402,000 for domestic market development, and $1,000,000 for inspection. Funds in the reserve at the end of the 1994–95 fiscal year, estimated at $363,483, will be within the maximum permitted by the order of one fiscal year's expenses.

The Peach Commodity Committee also met May 4, 1994, and unanimously recommended total expenses of $3,967,335, for the 1994–95 fiscal year. In comparison, this is $113,790 more than the $3,853,545 expense amount that was recommended for the 1993–94 fiscal year.

The Committee also unanimously recommended an assessment rate of $0.19 per 25-pound container or equivalent for the 1994–95 fiscal year, which is the same assessment rate that was approved for the previous fiscal year. The assessment rate, when applied to anticipated shipments of 17,571,000 25-pound containers or equivalent of peaches, would yield $3,338,490 in assessment income. Adequate funds exist in the Committee's reserve fund to cover additional expenses.

Major expense categories for the 1994–95 fiscal period are $447,118 in salaries and benefits, $1,402,000 for domestic market development, and $950,000 for inspection. Funds in the reserve at the end of the 1994–95 fiscal year, estimated at $578,639, will be within the maximum permitted by the order of one fiscal year's expenses.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs should be significantly offset by the benefits derived from the operation of the marketing orders. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Committees and other available information, it is hereby found that this rule as hereinafter set forth will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The Committees need to have sufficient funds to pay their expenses which are incurred on a continuous basis; (2) the fiscal year for the Committees began March 1, 1994, and the marketing orders require that the rates of assessment for the fiscal year apply to all assessable nectarines and peaches handled during the fiscal year; (3) handlers are aware of this action which was recommended by the Committees at public meetings and which are similar to budgets issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this action.

List of Subjects

7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

7 CFR Part 917

Marketing agreements, Pears, Peaches, Reporting and recordkeeping requirements.

For the reason set forth in the preamble, 7 CFR parts 916 and 917 are amended as follows:

1. The authority citation for 7 CFR parts 916 and 917 continues to read as follows:

Authority: 7 U.S.C. 601–674.

Note: These sections will not appear in the annual Code of Federal Regulations.

PART 916—NECTARINES GROWN IN CALIFORNIA

2. A new § 916.232 is added to read as follows:

§ 916.232 Expenses and assessment rate.

Expenses of $3,844,635 by the Nectarine Administrative Committee are authorized and an assessment rate of $0.1825 per 25-pound container or equivalent on assessable nectarines is established for the fiscal year ending February 28, 1995. Unexpended funds may be carried over as a reserve.

PART 917—FRESH PEARS AND PEACHES GROWN IN CALIFORNIA

3. A new § 917.256 is added to read as follows:

§ 917.256 Expenses and assessment rate.

Expenses of $3,967,355 by the Peach Commodity Committee are authorized and an assessment rate of $0.19 per 25-pound container or equivalent on assessable peaches is established for the fiscal year ending February 28, 1995. Unexpended funds may be carried over as a reserve.

Dated: June 27, 1994

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–16062 Filed 6–30–94; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 928

[Docket No. FV94–928–1IFR]

Papayas Grown in Hawaii; Expenses and Assessment Rate for 1994–95 Fiscal Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes expenditures and establishes an assessment rate for the Papaya Administrative Committee (Committee) under M.O. No. 928 for the 1994–95 fiscal year. Authorization of this budget enables the Committee to incur expenses that are reasonable and necessary to administer this program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective beginning July 1, 1994, through June 30, 1995. Comments received by August 1, 1994, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim final rule.

Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, PO Box 96456, Room 2523–S, Washington, DC 20090–6456; Fax # (202) 720–5698. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Britthany Beadle, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, PO Box 96456, Room 2523–S, Washington, DC 20090–6456, telephone: (202) 720–5127; or Martin Engler, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102 B, Fresno, California 93721, telephone: (209) 487–5901.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Agreement and Order No. 928 (7 CFR part 928), regulating the handling of papayas grown in Hawaii. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, papayas grown in Hawaii are subject to assessments. It is intended that the assessment rate specified herein will be applicable to all assessable papayas handled during the 1994–95 fiscal year, beginning July 1, 1994, through June 30, 1995. This interim final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 120 handlers of papayas regulated under the marketing order each season and approximately 400 papaya producers in Hawaii. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. A majority of these handlers and producers may be classified as small entities.

The marketing order, administered by the Department, requires that the assessment rate for a particular fiscal year apply to all assessable papayas handled from the beginning of such year. Annual budgets of expenses are prepared by the Committee, the agency responsible for local administration of this marketing order, and submitted to the Department for approval. The members of the Committee are handlers and producers of Hawaii papayas. They are familiar with the Committee's needs and with the costs for goods, services, and personnel in their local area, and are thus in a position to formulate appropriate budgets. The Committee's budget is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Committee is derived by dividing the anticipated expenses by expected shipments of papayas. Because that rate is applied to actual shipments, it must be established at a rate which will provide sufficient income to pay the Committee's expected expenses.

The Papaya Administrative Committee met on April 22, 1994, and unanimously recommended expenses totaling $589,200 for its 1994–95 budget. This is a $3,260 reduction in expenses compared to the 1993–94 budget of $592,460.

The Committee also unanimously recommended an assessment rate of $.0089 per pound for the 1994–95 fiscal year, which is a $.0024 increase in the assessment rate from the $.0065 per pound that was approved for the 1993–94 fiscal year. The assessment rate, when applied to anticipated shipments of 48 million pounds, would yield $427,200 in assessment income. Other sources of program income include $60,000 from the Hawaii Department of Agriculture, $57,000 from the USDA's Foreign Agricultural Service, $25,000 from the GACC, $7,800 from the Japanese Inspection program, $7,200 in interest income, and $5,000 from the County of Hawaii. Income from all sources will be adequate to cover estimated expenses.

Major expense categories for the 1994 fiscal year include $240,000 for the market expansion program, $68,000 for research and development, and $78,600 for salaries. Funds in the reserve at the end of the 1994–95 fiscal year, estimated at $37,356 will be within the maximum permitted by the order of one fiscal year's expenses.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs should be offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Committee and other available information, it is hereby found that this rule as hereinafter set forth will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the fiscal year for the

Committee begins July 1, 1994, and the marketing order requires that the rate of assessment for the fiscal year apply to all assessable papayas handled during the fiscal year; (3) handlers are aware of this action which was recommended by the Committee at a public meeting; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 928

Marketing agreements, Papayas, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 928 is amended as follows:

PART 928—PAPAYAS GROWN IN HAWAII

1. The authority citation for 7 CFR Part 928 continues to read as follows:

Authority: 7 U.S.C. 601–674.

Note: This section will not appear in the annual Code of Federal Regulations.

2. A new § 928.224 is added to read as follows:

§ 928.224 Expenses and assessment rate.

Expenses of $589,200 by the Papaya Administrative Committee are authorized and an assessment rate of $.0089 per pound of assessable papayas is established for the fiscal year ending June 30, 1995. Unexpended funds may be carried over as a reserve.

Dated: June 27, 1994.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–16060 Filed 6–30–94; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 947

[Docket No. FV94–947–21FR]

Oregon-California Potatoes; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 947 for the 1994–95 fiscal period. Authorization of this budget enables the Oregon-California Potato Committee (Committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective July 1, 1994, through June 30, 1995. Comments received by August 1, 1994, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim final rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, PO Box 96456, Room 2523–S, Washington, DC 20090–6456, FAX 202–720–5698. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, PO Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–9918, or Teresa L. Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Green-Wyatt Federal Building, room 369, 1220 Southwest Third Avenue, Portland, OR 97204, telephone 503–326–2724.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 114 and Order No. 947, both as amended (7 CFR part 947), regulating the handling of Irish potatoes grown in Oregon-California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

The Department is issuing this rule in conformance with Executive Order 12866.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order now in effect Oregon-California potato handlers are subject to assessments. Funds to administer the Oregon-California potato order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable potatoes during the 1994–95 fiscal period, which begins July 1, 1994, and ends June 30, 1995. This interim final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 550 producers of Oregon-California potatoes under this marketing order, and approximately 40 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of Oregon-California potato producers and handlers may be classified as small entities.

The budget of expenses for the 1994–95 fiscal period was prepared by the Oregon-California Potato Committee, the agency responsible for local administration of the marketing order, and submitted to the Department for approval. The members of the Committee are producers and handlers of Oregon-California potatoes. They are familiar with the Committee's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Oregon-California potatoes. Because that rate will be applied to actual shipments, it must be established at a rate that will provide sufficient income to pay the Committee's expenses.

The Committee unanimously recommended a budget of $45,100, $1,500 more than last season. Increases in expenditures, which include $150 for the Committee's annual report, $50 for the Committee's audit, $1,000 for inspection fees, $500 for investigation and compliance, and $50 for miscellaneous, will be partially offset by a decrease of $250 in staff travel. Major expense items include $24,000 for the Oregon Potato Commission contract agreement, $4,500 for Committee expense, $3,000 each for investigation and compliance and staff travel, $2,000 for inspection fees, $1,500 for telephone, $1,400 for the annual report, $1,250 for postage, and $1,000 each for Committee compensation and office supplies. The Commission provides certain services to the Committee as specified in a memorandum of understanding.

The Committee also unanimously recommended an assessment rate of $0.006 per hundredweight, $0.001 more than last season. This rate, when applied to anticipated shipments of 7,500,000 hundredweight, will yield $45,000 in assessment income. This, along with $100 from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve at the beginning of the 1994–95 fiscal period, estimated at $6,561, will be within the maximum permitted by the order of one fiscal period's expenses.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the fiscal period begins on July 1, 1994, and the marketing order requires that the rate of assessment for the fiscal period apply to all assessable potatoes handled during the fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and confirmed by a mail vote and is similar to other budget actions issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 947

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 947 is amended as follows:

PART 947—IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES, CALIFORNIA, AND IN ALL COUNTIES IN OREGON, EXCEPT MALHEUR COUNTY

1. The authority citation for 7 CFR part 947 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new § 947.245 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 947.245 Expenses and assessment rate.

Expenses of $45,100 by the Oregon-California Potato Committee are authorized, and an assessment rate of $0.006 per hundredweight of assessable potatoes is established for the fiscal period ending June 30, 1995. Unexpended funds may be carried over as a reserve.

Dated: June 27, 1994.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–16058 Filed 6–30–94; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 1205

[CN–94–006]

RIN 0581–AB29

Amendment to Cotton Research and Promotion Regulations Regarding Assessment of Imported Cotton-Containing Products

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: The Agricultural Marketing Service (AMS) is amending the Cotton Board Rules and Regulations to allow for the continuation of collections on renumbered imported cotton-containing products as long as no change in the product's Harmonized Tariff Schedule (HTS) description occurs. Since renumbering of products by the U.S. Customs Service occurs rather frequently, providing for a continuation of assessment collection will prevent unnecessary and costly interruptions of the program.

DATES: This rule is effective upon publication. Comments received by August 1, 1994, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to Craig Shackelford, Cotton Division, AMS, USDA, P.O. Box 96456, Room 2641–S, Washington D.C. 20090–6456, or by facsimile (202) 690–1718. Three copies of all written materials shall be submitted, and they will be made available for public inspection in the office of the Cotton Division, Washington D.C., during regular business hours. All comments should reference docket number, date, and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Craig Shackelford, Chief, Cotton Research and Promotion Staff, Cotton Division, AMS, USDA, P.O. Box 96456, Room 2641–S, Washington, D.C. 20090–6456; or telephone: (202) 720–2259.

SUPPLEMENTARY INFORMATION: This rule has been determined to be not significant for purposes of Executive Order 12866, and therefore has not been reviewed by the Office of Management and Budget.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under Section 12 of the Act, any person subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the District Court of the United States in any district in which the person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling, provided a complaint is filed within 20 days from the date of the entry or the ruling.

There are an estimated 10,000 importers who are presently subject to rules and regulations issued pursuant to the Cotton Research and Promotion Order 7 U.S.C. 2101–2118. This rule will affect importers of cotton and products containing cotton. The majority of these importers are small businesses under the criteria established by the Small Business Administration. This rule will help ensure the uninterrupted collection of assessments on products already subject to assessment.

The AMS Administrator has determined that this interim final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

In compliance with Office of Management and Budget (OMB) regulations (5 CFR Part 1320) which implement the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*) the information collection and recordkeeping requirements contained in this subpart have been previously approved by OMB and assigned control number 0581–0093.

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is impractical, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of action until 30 days after publication in the **Federal Register** because: (1) it would be disruptive, costly, and inefficient to permit a substantial interruption in assessment collections; and (2) this interim final rule provides for a 30-day comment period, and all comments will be considered prior to finalization of this action.

In July of 1992, the Department of Agriculture (USDA) finalized rules and regulations for the authority to collect assessments on cotton and cotton-containing products as authorized in the 1990 Farm Bill. In order to designate specific imported products subject to assessment, AMS published, within the implementing regulations, a table of approximately 700 HTS numbers and individual assessment rates for each. Collections began on August 1, 1992. Soon after, the Department of Commerce changed certain HTS numbers that USDA had identified as subject to the assessment. During the first 17 months of import assessments, AMS has found that the Department of Commerce may revise HTS numbers as a result of presidential proclamation, congressional actions, statistical tracking requirements, etc. Often, these changed numbers are merely replacements of previous numbers and have no impact on the physical properties, description or cotton content of the product it represents.

The U.S. Customs Service informed USDA prior to the publishing of this rule that several HTS numbers listed in the Import Assessment Table contained in 7 CFR 1205.510 would no longer be valid as of January 1, 1994, because of recent statistical changes made by the Department of Commerce. These statistical changes to the HTS numbers were made for reasons associated with the implementation of the North American Free Trade Agreement.

In order to collect cotton research and promotion assessments on imported products containing cotton, HTS numbers listed in the Assessment Table in 7 CFR 1205.510 must correspond to numbers listed in the Harmonized Tariff Schedule. USDA has found that frequent rulemaking is necessary in order to maintain an up-to-date list of HTS numbers in the regulations which provide the U.S. Customs Service the authority to collect cotton research and promotion assessments on imported cotton and products containing cotton.

Changes made to HTS numbers during calendar year 1993 have resulted in reduced collections by U.S. Customs under the import assessment program averaging over $30,000 per month.

USDA has reason to believe that changes in HTS numbering and the resulting impact on the Cotton Research and Promotion Program will continue. U.S. international trade agreements such as NAFTA, GATT, and changes in most favored nation trading status for certain textile producing countries will, according to the U.S. Customs Service, generate changes in HTS headings on a continuing basis. The Cotton Research and Promotion Program would in this environment experience an unpredictable loss of revenue.

With the number and frequency of HTS number changes USDA expects, updating the list of HTS numbers through rulemaking is an impractical solution to minimizing interruptions in assessment collections. Therefore, this rule provides for the continued collection of assessments when HTS numbers are changed so long as such changes have no impact on the physical properties, description, or cotton content of the products involved.

It is important to note that Commerce does renumber HTS headings where an actual change in the product occurs. This rule would not address this type of renumbering. USDA would continue to suspend assessments in these situations until the cotton content and a revised assessment rate could be determined and the assessment table revised.

Based on discussions with importers and U.S. Customs Service officials, USDA has determined that the import community supports continuing to pay assessments on products when numbers have changed but the product remains the same. In fact, suspending collections on HTS headings that undergo mere renumbering is causing confusion for importers and Customs. Customs officials have informed USDA that they can program their automated computer collection system to continue collecting assessments when HTS headings undergo renumbering.

List of Subjects in 7 CFR Part 1205

Advertising, Agricultural research, Cotton, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 1205 is amended as follows:

PART 1205—COTTON RESEARCH AND PROMOTION

1. The authority citation for Part 1205 continues to read as follows:

Authority: 7 U.S.C. 2101–2118.

2. In § 1205.510, paragraph (b)(3) is revised to read as follows:

§ 1205.510 Levy of assessments.

* * * * *

(b) * * *

(3) The following table contains Harmonized Tariff Schedule (HTS) classification numbers and corresponding conversion factors and assessments. The left column of the following table indicates the HTS classifications of imported cotton and cotton-containing products subject to

assessment. The center column indicates the conversion factor for determining the raw fiber content for each kilogram of the HTS. HTS numbers for raw cotton have no conversion factor in the table. The right column indicates the total assessment per kilogram of the article assessed.

(i) Any line item entry of cotton appearing on Customs entry documentation in which the value of the cotton contained therein is less than $220.99 will not be subject to assessments as described in this section.

(ii) In the event that any HTS number subject to assessment is changed and such change is merely a replacement of a previous number and has no impact on the physical properties, description, or cotton content of the product involved, assessments will continue to be collected based on the new number.

* * * * *

Dated: June 27, 1994.

Lon Hatamiya,

Administrator.

[FR Doc. 94–16061 Filed 6–30–94; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103, 245, 245a, 264, and 274a

[INS No. 1660–94]

RIN 1115–AD73

Expansion of the Direct Mail Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: The Immigration and Naturalization Service (Service) is expanding its Direct Mail Program, under which certain applications or petitions for immigration benefits can be mailed directly to a service center for processing. This interim rule amends the regulations to allow those types of applications designated for Direct Mail to be filed with service center directors. This change will reduce processing time and in-person visits to local Service offices.

DATES: This interim rule is effective July 1, 1994. Written comments must be submitted on or before August 30, 1994.

ADDRESSES: Please submit written comments, in triplicate, to the Records Systems Division, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 5307, Washington, DC 20536. To ensure proper handling, please reference INS No. 1660–94 on your correspondence.

FOR FURTHER INFORMATION CONTACT: Pearl Chang, Senior Examiner, Adjudications Division, Immigration and Naturalization Service, 425 I Street, NW., Room 3214, Washington, DC 20536, telephone (202) 514–3240.

SUPPLEMENTARY INFORMATION: The Immigration and Naturalization Service is amending § 103.2 governing the filing of applications/petitions for benefits under 8 CFR parts 103, 245, 245a, 264, and 274a, by providing service center directors the authority to accept and process applications/petitions being designated for Direct Mail. The existing regulations provide that applications for certain benefits be filed with the district director having jurisdiction over the applicant's place of residence. This amendment will give the Service the flexibility to shift filings to the service centers as it continues to expand the Direct Mail Program.

Most applications/petitions are filed by mail directly to a service center. The service centers receipt the cases, handle preliminary processing, and either issue a decision or forward the case to a local Service office for an interview, field review or investigation based on an analysis of individual facts and profiles. The Service's strategic plan is to have the service centers absorb additional workload by eventually adding more types of petitions/applications that can be accepted by service centers under the Direct Mail Program.

Background

Traditionally, most Service customer had to make several trips to a Service office to obtain forms, information, and to actually file applications. To improve service to its customers, in 1985 the Service developed a three-phase strategic plan called the Direct Mail Program. The objective was to facilitate and improve service by gradually automating and streamlining the adjudication process.

Direct Mail Program—Phases I and II

In the first two phases of the Direct Mail Program, the public began mailing a variety of applications/petitions directly to one of the four service centers instead of submitting these applications in person at the Service field offices. Currently, almost 60 percent of all applications and petitions filed with the Service are processed at one of these four service centers thereby alleviating the severe overcrowding that occurs in Service offices if the workload had to be processed locally. It has also improved consistency, productivity, and timeliness of application processing, and has provided more information about case status through receipt and other notices. As a result, the Direct Mail Program enjoys broad public support.

An important reason the service centers have been able to absorb the additional workload can be attributed to the development and use of automated technology such as the Computer Linked Application Information Management System (CLAIMS). This system is used to track applications and petitions and to process and issue notices and decisions on all filed cases. Encouraged by these positive results, the Service is embarking on the third and final phase of the Direct Mail Program.

Direct Mail Program—Phase III

Phase III of the Direct Mail Program is intended to further alleviate adjudication burdens of local Service offices, thereby enabling the Service offices to provide more intensive contact services with the public, such as responding to inquiries, conducting interviews, and performing field examinations.

Planned Procedure Changes

During the next several years, the Service plans the expansion of the Direct Mail Program through two complementary strategies as follows:

1. Continued Form-by-Form Nationwide Conversion

In terms of plans for future nationwide implementation, the Service plans the following conversions.

a. Application for an Employment Authorization Document (EAD)—Form I–765

Currently about one-half of all EAD applications are filed and processed through Direct Mail. This conversion has improved inventory control, data integrity, and overall service. It has also meant the employment authorization data is available sooner for verification purposes.

During the next 12 months, the Service plans to shift almost all remaining EAD applications to Direct Mail as a new production system becomes available in the service centers and the capacity is developed to assimilate the workload into the service centers. On an interim basis, two types of applications will continue to be filed locally so they can be pre-screened before being sent to the service center for processing. These are:

i. Applications with eligibility based on an alien being in proceedings before an immigration judge; and

ii. Applications with eligibility based on a separate application for adjustment of status under section 245 of the Act that was filed and is pending at the local office.

It should be noted that the proposed changes in filing procedures for EADs will require applicants to initially submit their applications with two (2) color photos and, until a new application form containing a fingerprint block and revised filing instructions is available, a completed signature card to a local INS office. Applicants may also be asked to appear at a local office to pick up their first EADs as a means of verifying their identity. After this one-time visit to the local INS office, the Service will be able to electronically verify the applicant's identity when future applications are filed.

After reviewing the comments to this rulemaking, the Service proposes to revise the filing instructions on Form I–765 to reflect the procedures outlined above and then publish the new instructions in the **Federal Register**.

b. Application for Alien Registration Card—Forms I–90, I–90A, and Application To Adjust Status From Temporary to Permanent Resident I–698

The Service also plans to convert all applications for an alien registration card to a single Direct Mail process. Manufacturing of a card requires that persons first have had their right index fingerprint and signature recorded on a secure document so they can be incorporated into the card. Currently some of these types of applications are filed by Direct Mail and the person then is instructed to appear for this process to be done. In other instances, the person must take his or her application to a local office for this process. The local office then forwards the application to the service center for receipting and processing.

The Service plans to convert Forms I–90, I–90A, and I–698 to Direct Mail, first by requiring that these applications be accompanied by a completed fingerprint card, FD–258, and then by revising the application forms to capture the right index fingerprint. This will standardize the collection of fingerprints and signatures and enable the Service to electronically capture and store this data for future verification. Although controls will have to be introduced to ensure the appropriate fingerprint and photo are submitted, ultimately an applicant will not normally have to appear at the local INS office for these processes.

After reviewing the comments to these planned changes, the Service will revise the filing instructions on Form I–90 to reflect the procedures outlined above and then publish the new instructions in the **Federal Register**.

c. Application To Adjust Status—Form I–485

The Service also plans to convert adjustment of status applications to Direct Mail over the next several years. This conversion will be done incrementally by type of eligibility for adjustment—for example, shifting all applications for adjustment of status based on having asylee status for a year.

The Service is also considering shifting the processing of completing the transition of refugees to permanent resident status to Direct Mail. However, this would require the introduction of a formal application process.

2. Office-by-Office Implementation of Direct Mail

Effective July 1, 1994, the Baltimore District Office will serve as the pilot site for the installation of CLAIMS and conversion to Direct Mail. (See the Notice published elsewhere in this issue of **Federal Register** by the Immigration and Naturalization Service.) Beginning in Baltimore, CLAIMS will be installed in local INS offices on an incremental basis. The installation of CLAIMS at any district office will permit a shift of most casework to Direct Mail for that district. This office-by-office conversion will take place in tandem with the nationwide form-by-form conversion until the Direct Mail Program is complete.

It should be noted that the Service plans to continue to accept and process certain applications locally even after Phase III is implemented. Petitions for orphans will still be filed and processed locally, as will applications for waivers of grounds of excludability discovered during an interview. Applications for border crossing cards and waivers when applying for admission will continue to be filed and processed at Ports-of-Entry.

Where to File

1. 8 CFR 103.2(a) requires that an application, petition, and/or other document submitted to the Service be executed and filed in accordance with the instructions on the application form, as stipulated by the particular section of the regulations requiring its submission. These instructions always provide information on where an application or petition should be filed, including the mailing address. In a direct mail environment, an applicant should file his or her application or petition with either the district director or the service center director having jurisdiction over the applicant's place of residence, as directed by the instructions on the form, to avoid processing delays.

2. Prior to the Direct Mail Program, Service regulations typically required that applications or petitions be filed with the district director having jurisdiction over the applicant's place of residence. Since the inception of Direct Mail, the Service has been gradually amending its regulations by replacing the "district director" with "director" to apply to both district directors and service center directors. Most of these amendments were made when the Service made rules to implement the Immigration Act of 1990. However, certain sections in 8 CFR parts 245, 245a, 264, and 274a still require that the form be filed with the "district director" having jurisdiction over the alien's place of residence. This interim rule amends the pertinent sections by removing the remaining references to "district director" and replacing them with "director" to conform with the Direct Mail policy.

The Service's implementation of this rule as an interim rule, with provision for post-promulgation public comment, is based on the "good cause" exception found at 5 U.S.C. 553 (a)(2) and (d)(3). This regulation relates to agency management as it expands the scope of the service center directors to accept and process certain types of applications/petitions under the Direct Mail Program. This change will provide flexibility to transfer filings to service centers as the Direct Mail Program is expanded, thereby alleviating the severe overcrowding that occurs in Service offices if the workload had to be processed locally. It will also improve consistency, productivity, and timeliness of application processing, and will provide more information about case status through receipt and other notices.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule is merely administrative in nature and expands the scope of Service officers.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, § 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

The regulation will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12606

The Commissioner of the Immigration and Naturalization Service certifies that she has addressed this rule in light of the criteria in Executive Order 12606 and has determined that it will enhance family well-being by reducing the processing time for aliens applying for certain immigration benefits.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Reporting and recordkeeping requirements.

8 CFR Part 245

Administrative practice and procedure, Aliens, Immigration.

8 CFR Part 245a

Administrative practice and procedure, Aliens, Immigration.

8 CFR Part 264

Aliens, Registration and fingerprinting, Reporting and recordkeeping requirements.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. In § 103.2, paragraph (a)(1) is revised to read as follows:

§ 103.2 Applications, petitions, and other documents.

(a) *Filing.* (1) *General.* Every application, petition, appeal, motion, request, or other document submitted on the form prescribed by this chapter shall be executed and filed in accordance with the instructions on the form, such instructions, which include where an application or petition should be filed, being hereby incorporated into the particular section of the regulations requiring its submission. The form must be filed with the appropriate filing fee required by § 103.7. Such fees are non-refundable and, except as otherwise provided in this chapter, must be paid when the application or petition is filed.

* * * * *

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

3. The authority citation for part 245 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1255; and 8 CFR part 2.

§ 245.2 [Amended]

4. Section 245.2 is amended by revising the term "the district director" to read "the director" whenever it appears in the following paragraphs:

(a)(1)

(a)(5)(i)

(a)(5)(ii)

(a)(5)(iii)

(b)

(c)

§ 245.3 [Amended]

5. Section 245.3 is amended by revising the term "the district director" to read "the director" in the first sentence.

§ 245.7 [Amended]

6. In § 245.7, paragraph (a) is amended by revising the term "the district director" to read "the director" in the first sentence.

PART 245a—ADJUSTMENT OF STATUS TO THAT OF PERSONS ADMITTED FOR LAWFUL TEMPORARY OR PERMANENT RESIDENT STATUS UNDER SECTION 245A OF THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED BY PUBLIC LAW 99–603, THE IMMIGRATION REFORM AND CONTROL ACT OF 1986, AND PUBLIC LAW 100–204, SECTION 902

7. The authority citation for part 245a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1255a and 1255a note.

8. Section 245a.3 is amended by revising paragraph (d)(1) to read as follows:

§ 245a.3 Application for adjustment from temporary to permanent resident status.

* * * * *

(d) * * *

(1) The application must be filed on Form I–698. Form I–698 must be accompanied by the correct fee and documents specified in the instructions. The application will be mailed to the director having jurisdiction over the applicant's place of residence.

* * * * *

PART 264—REGISTRATION AND FINGERPRINTING OF ALIENS IN THE UNITED STATES

9. The authority citation for part 264 continues to read as follows:

Authority: 8 U.S.C. 1103, 1201, 1201a, 1301–1305.

§ 264.5 [Amended]

10. In § 264.5, paragraph (e)(2)(i) is amended in the first sentence by revising the phrase ", in person, at" to read "with".

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

11. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2.

§ 274a.13 [Amended]

12. Section 274a.13 is amended by revising the term "district director" to read "director" whenever it appears in paragraphs (a) and (d).

13. Section 274a.13 is further amended in paragraph (d) by revising the term "district director's" to read "director's" in the last sentence.

Dated: June 24, 1994.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 94-16037 Filed 6-30-94; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

RIN 0960-AB09

20 CFR Part 416

Supplemental Security Income for the Aged, Blind, and Disabled; What Is Not Income

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: These final rules revise the regulations as to what is considered not to be income under the supplemental security income (SSI) program in the following instance. The final rules conform SSI policy to a number of court rulings that have required the Social Security Administration (SSA) to consider Department of Veterans Affairs (DVA) payments resulting from unusual medical expenses not to be income for SSI purposes. Previously, DVA payments resulting from unusual medical expenses were considered needs-based pension or compensation payments and, therefore, income for SSI purposes except in the Ninth Circuit where SSA's Acquiescence Ruling 86-1(9) applies and in the Eleventh Circuit and the State of Indiana where courts have invalidated SSI policy. These regulations implement on a national basis a treatment of DVA payments resulting from unusual medical expenses that generally will be more advantageous to recipients than current national policy.

EFFECTIVE DATE: July 1, 1994.

FOR FURTHER INFORMATION CONTACT: Duane Heaton, Legal Assistant, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-8470.

SUPPLEMENTARY INFORMATION: These regulations affect the SSI program under title XVI of the Social Security Act (the Act), as amended and the Medicaid program under title XIX of the Act to the extent that Medicaid eligibility is based on title XVI eligibility. The purpose of the SSI program is to provide a minimum income level for aged, blind, and disabled people who do not have income or resources above levels specified in the Act. The regulations change what is considered not to be income under the SSI program.

The DVA considers veterans' unusual medical expenses by deducting them from any countable income when computing some needs-based pension and compensation payments. (Unusual medical expenses are unreimbursed medical expenditures that exceed 5 percent of the applicable maximum annual DVA basic payment rate. This rate does not include an aid and attendance component.) Unusual medical expenses may result in a higher monthly DVA payment, an extra payment, or an increase in a payment. These DVA payments were treated as needs-based pension or compensation payments and, under § 416.1121(a), as income for SSI purposes.

In the case of *Summy v. Schweiker*, 688 F.2d 1233 (1982), the Ninth Circuit Court of Appeals held that these additional DVA payments represented reimbursement for medical expenses, and, therefore, were not income for SSI purposes under § 416.1109(a). This section, which exempted third-party reimbursement for medical expenses from income, was subsequently revised and now appears at § 416.1103(a). We are adding § 416.1103(a)(7), which refers to DVA payments resulting from unusual medical expenses, to the list of medical care or services that are excluded from the definition of income. By doing this, we are recognizing that the nature of such payments is analogous to that of other forms of medical care or services that are currently not income under § 416.1103(a).

SSA published Acquiescence Ruling 86-1(9) to apply the *Summy* holding within the Ninth Circuit. Upon publication of these regulations, Acquiescence Ruling 86-1(9) will be withdrawn. While the regulatory change will generally benefit SSI recipients, it may result in reduced benefits or ineligibility for a small number of SSI recipients. Under section 1614(f) of the Act, the income and resources of spouses and parents who are not eligible for SSI are considered to the extent determined by the Secretary as the income and resources of their spouses and children who live with them and are eligible for SSI benefits. This is known as deeming. We do not count any of the income of an ineligible spouse or parent who receives payments from a needs-based public income maintenance program because to do so would defeat the purpose of such a program.

Presently, DVA payments resulting from unusual medical expenses are considered needs-based public income maintenance payments, and we do not count under SSI deeming rules any income of an ineligible spouse or parent which was counted or excluded in figuring these payments (see § 416.1161(a)(2)). Under these final regulations, DVA payments resulting from unusual medical expenses will be considered reimbursement for medical expenses and not needs-based pension or compensation payments. For an individual who receives only such payments, receipt of such payments will no longer preclude our counting as income to the SSI recipient part of the income of an ineligible spouse or parent used in computing such payment.

Example: Jenny, a disabled child who is eligible for SSI benefits, lives with her father, Mr. Morton, who received both a DVA pension based on need and a title II Social Security benefit. In determining how much income to deem to the child, none of Mr. Morton's title II benefit was considered income deemable to Jenny because the DVA had already counted Mr. Morton's title II benefit in figuring the amount of his DVA needs-based pension payment. In January 1992, Mr. Morton reported an increase in his title II benefit to the DVA and the amount of the increase precluded him from receiving further DVA pension payments. Because no DVA needs-based pension payment was being made, Mr. Morton's title II benefit was deemable as income to Jenny, resulting in a reduction of her SSI payment. In December 1992, Mr. Morton filed an annual report with the DVA reflecting both his title II income and evidence of his payment of unusual medical expenses. The DVA recomputed his income for the period January 1992 through December 1992 based on the evidence of unusual medical expenses and issued him a one-time payment. Under the prior policy, we would recalculate Jenny's SSI payment for the period January 1992 through December 1992 in order not to deem to Jenny any of Mr. Morton's title II benefit used by the DVA in determining a needs-based pension payment. However, under these final regulations, for deeming purposes, we will not recalculate Jenny's SSI benefit and will continue to consider Mr. Morton's title II benefit for the period January 1992 through December 1992 as income available to Jenny. The DVA payment resulting from unusual medical expenses will no longer be considered a public income-maintenance payment so we will not exclude any income used in calculating it, but instead we will consider the payment reimbursement for medical expenses and not income.

The above example describes how we will apply the *Summy* decision nationwide under the SSI program. This change in the treatment of DVA payments for unusual medical expenses also affects how income is determined under the Medicaid program under title XIX of the Act.

We published a notice of proposed rulemaking (NPRM) on August 24, 1988 (53 FR 32252). That NPRM included proposed SSA and Health Care Financing Administration (HCFA) regulations on the treatment of DVA payments for unusual medical expenses under the SSI program as well as under the Medicaid program under title XIX of the Act. SSA coordinated and combined the NPRM with HCFA because, generally, the Medicaid statute uses the methodologies and treatment of income of the cash assistance programs such as SSI as the baseline for determining eligibility for Medicaid. Thus, in defining income for Medicaid eligibility purposes, the SSI treatment of DVA payments for unusual medical expenses would usually be applied.

Based on the public comments and subsequent court decisions, the Medicaid portion of the final regulations required further consideration. As a result, SSA decided to proceed separately with the SSI portion of the final regulations. We based this decision on the need to provide uniform national policy in this area. These changes in SSI income rules will affect the Medicaid program in those States which use SSI income rules in their Medicaid program.

Comments Received Following Publication of the NPRM

When these regulations were published as an NPRM, interested parties were given 60 days to submit comments. We received 13 letters: 3 from State or local governmental entities, 4 from special interest organizations, and 6 from individuals. Several commenters wrote merely to support the proposed regulations; one indicated that the proposed regulations are unnecessary; and others, while supporting the proposed regulations, suggested changes. Many of the commenters addressed issues regarding the Medicaid aspects of the NPRM. The issues raised by those commenters are not within the purview of these final SSI regulations and have been referred to HCFA for appropriate response. We have summarized the SSI issues raised by the commenters and responded to these comments below.

Comment: One commenter suggested that the phrase "pension or compensation payments" is more appropriate than the phrase "pension payments" which we used in the preamble to the NPRM, because DVA Dependency and Indemnity Compensation payments are also increased for unusual medical expenses.

Response: We agree that the phrase "pension payments" should be clarified to more accurately describe DVA payments. In addition, we have emphasized that these payments are based on need by replacing the word "pension" with the phrase "needs-based pension or compensation" in the description of the rule change in this preamble.

Comment: One commenter stated that the Medicaid regulations would defeat the purpose of the DVA payments. In support of this statement the commenter referred to a September 14, 1978, **Federal Register** document which provides:

> "Where the SSI program reduces its payments to take into account assistance of this type (medical or social) furnished under other governmental programs, SSI is, in effect, nullifying or frustrating achievement of those other programs' purposes."

In referring to the above **Federal Register** statement, the commenter stated that "this longstanding principle prohibiting the nullification of other benefits available to a recipient would be violated (for Medicaid purposes) if the DVA reimbursement for unusual medical expenses were to be included as income in the post-eligibility determination of the recipients' contribution to cost of care."

Response: The **Federal Register** statement to which the commenter has referred was made in the context of the SSI program and not the Medicaid program. In the context of the SSI program, the SSI program provides funds to meet an individual's food, clothing, and shelter needs, not medical or social service needs. One of the express purposes of these final rules is to revise SSI regulations so as not to count certain DVA payments in determining eligibility for and the amount of the SSI payments. To the extent the commenter is referencing the Medicaid program, this comment has been referred to HCFA for appropriate response. Other than the change explained above to the preamble to the regulations, we are adopting these SSI regulations as proposed.

Regulatory Procedures

Executive Order 12866

The Office of Management and Budget has reviewed these rules and determined they do not meet the criteria for a significant regulatory action under E.O. 12866.

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 individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act of 1980

These regulations impose no additional reporting and recordkeeping requirements necessitating clearance by the Office of Management and Budget.

(Catalog of Federal Domestic Assistance: Program No. 93.807, Supplemental Security Income)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental security income.

Dated: August 18, 1993.

Lawrence H. Thompson,

Principal Deputy Commissioner of Social Security.

Approved: August 30, 1993.

Dona E. Shalala,

Secretary of Health and Human Services.

Note: This document was received by the Office of the Federal Register on June 28, 1994.

For the reasons set out in the preamble, part 416 of Title 20 of the 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.

2. In § 416.1103, a new paragraph (a)(7) is added to read as follows:

§ 416.1103 What is not income.

* * * * *

(a) * * *

(7) Payments from the Department of Veterans Affairs resulting from unusual medical expenses.

* * * * *

[FR Doc. 94–16050 Filed 6–30–94; 8:45 am]

BILLING CODE 4190–29–P