Rules and Regulations

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 303

RIN 3064–AB36

Applications and Publication Requirements; Establishment and Relocation of Remote Service Facilities

AGENCY: Federal Deposit Insurance Corporation (FDIC or Corporation).

ACTION: Final rule.

SUMMARY: The Board of Directors (Board) of the FDIC is revising its application and publication requirements for the establishment and relocation of remote service facilities (RSFs). The intended effect of this rule is to lessen the regulatory burden on state nonmember banks and state-licensed branches of foreign banks.

EFFECTIVE DATE: This rule is effective August 23, 1994.

FOR FURTHER INFORMATION CONTACT: Curtis L. Vaughn, Examination Specialist, Division of Supervision (202/898–6759), Federal Deposit Insurance Corporation, 1776 F Street, NW., Washington, DC 20429; or Jeffrey M. Kopchik, Counsel, Legal Division, (202/898–3872), Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

No additional collections of information pursuant to § 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) are contained in the final rule. Consequently, no information was submitted to the Office of Management and Budget for review.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the FDIC hereby certifies that the final rule will not have a significant impact on a substantial number of small entities.

The FDIC has reached this conclusion because the effect of the rule will be to reduce the recordkeeping, reporting and compliance requirements that are imposed upon small entities rather than to increase them. This is because the final rule seeks to create a blanket approval process for requests that must receive the prior written consent of the FDIC. The final rule imposes no new recordkeeping or reporting requirements upon small entities since notices required are abbreviated versions of letter applications currently required of banks. Furthermore, most institutions would not be required to give public notice of the transaction which would reduce burden on the requesting institutions.

Effective Date

The necessity for a 30-day delay in effective date has been waived since this rule relieves a restriction. 5 U.S.C. 553(d)(1).

Discussion

On April 26, 1994 the FDIC published for public comment a proposed revision to part 303 of its regulations concerning the application and publication requirements for the establishment and relocation of remote service facilities. 59 FR 21676 (April 26, 1994). In general, the proposal sought to reduce the regulatory burden on state nonmember banks and state-licensed branches of foreign banks by lessening the application and notice requirements which an institution must satisfy before it may establish or relocate an RSF. Even more streamlined procedures were set forth for banks with Community Reinvestment Act (CRA) ratings of satisfactory or better.

The FDIC received a total of eight comment letters in response to its proposal. Five of the letters were from banks or their holding companies and three were from industry trade associations. All of the letters enthusiastically supported the proposed revisions.

The FDIC Board specifically requested comment on whether the proposed revision should treat different types of RSFs differently, *i.e.*, an RSF which caters exclusively to one bank's customers as opposed to a shared RSF which is utilized by customers of many banks. The four of eight commenters which addressed this question all urged the FDIC to adopt the same standards for all types of RSFs, which is the approach that was taken in the proposal and has been retained in the final rule.

Under the prior regulation, banks desiring to establish an initial RSF were required to comply with all the application and publication requirements applicable to the establishment of a "brick and mortar" branch office. Successive RSFs could be established or relocated without a formal application pursuant to somewhat less involved requirements. The prior regulation did not differentiate based upon the condition of the institution submitting the application; the only difference it recognized was whether or not this was an initial application.

In view of the limited investment represented by an RSF, the fact that all the information in the FDIC's possession indicates that consumers are of the opinion that RSFs are a convenient and desirable banking service and the support expressed by all the commenters, the FDIC is amending its regulation concerning the establishment and relocation of RSFs to lessen the application and notice requirements which an institution must satisfy before it may establish or relocate an RSF. Furthermore, the final regulation sets forth even more streamlined procedures for banks with CRA ratings of satisfactory or better.

Specifically, § 303.2(c) provides that a state nonmember bank or an insured state-licensed branch of a foreign bank whose most recent CRA rating is Satisfactory or better may establish and operate or relocate an RSF by filing a letter with the appropriate FDIC regional director. The letter shall contain the location of the RSF and either a representation that the site is not included in or eligible for inclusion in the National Register of Historic Places or written verification that in the opinion of the appropriate state historic preservation officer the establishment or relocation of the RSF will have no adverse effect on a historic site. Unless the institution is notified otherwise by the FDIC within seven days of receipt of the letter, the institution may establish or relocate the RSF. The public notice requirements are being dispensed with in this case. See § 303.2(c)(2). However, if the institution cannot make such representations concerning compliance with the National Historic Preservation Act, 16 U.S.C. 470 *et seq.*, it shall proceed pursuant to § 303.2(c)(3).

In the event that the state nonmember bank or insured state-licensed branch's most recent CRA rating is not Satisfactory or better, § 303.2(c)(3) provides that the institution shall file the letter described in § 303.2(c)(2) and comply with the existing notice provisions of § 303.6(f). Unless the institution is notified otherwise within fifteen days after completion of processing of the letter, the institution may establish or relocate the RSF. In the event that a protest is filed or other objection is taken, the institution may not proceed until the FDIC provides written notice of its approval.

The remaining revisions are to § 303.6(a) and (f) of the FDIC's regulations. They are technical in nature in order to conform these sections, which concern application procedures and public notices of application filings, to the new procedures set forth in § 303.2. First, § 303.6(a)(2) and (3) have been revised to take into account the different procedures set forth in § 303.2(c) for institutions with CRA ratings of Satisfactory or better as opposed to institutions with CRA ratings of less than Satisfactory. Second, the heading of § 303.6(f)(1)(A) has been revised to make it clear that section applies to applications to establish an RSF. Third, § 303.6(f)(2) has been amended to delete any reference to remote service facilities. This is being done in order to conform this section of the regulation with the revision to § 303.6(a) which deletes the publication requirement for applicants with CRA ratings of satisfactory or better.

The Board is of the opinion that this is a sensible revision which will substantially reduce the regulatory burden imposed on state nonmember banks and insured state-licensed branches of foreign banks that desire to establish or relocate an RSF without adversely affecting the FDIC's ability to assure the safety and soundness of the insured financial institutions it regulates or its responsibilities under the CRA. Thus, the proposal is being adopted in final form without change.

List of Subjects in 12 CFR Part 303

Administrative practice and procedure, Authority delegations (Government agencies), Bank deposit insurance, Banks, banking, Reporting and recordkeeping requirements, Savings associations.

For the reasons set forth in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation hereby amends part 303 of title 12 of the Code of Federal Regulations as follows:

PART 303—APPLICATIONS, REQUESTS, SUBMITTALS, DELEGATIONS OF AUTHORITY, AND NOTICES REQUIRED TO BE FILED BY STATUTE OR REGULATION

1. The authority citation for Part 303 continues to read as follows:

Authority: 12 U.S.C. 378, 1813, 1815, 1816, 1817(a)(2)(b), 1817(j), 1818, 1819 ("Seventh" and "Tenth"), 1828, 1831(e), 1831(o), 1831p-1(a); 15 U.S.C. 1607.

2. In § 303.2, paragraph (a), introductory text is amended by removing the second parenthetical in the first sentence, the parentheticals in the second and third sentences, and by removing ", relocate a remote service facility" and "other than a remote service facility" from the fourth sentence, and paragraph (c) is revised to read as follows:

§ 303.2 Applications by insured state nonmember bank to establish a branch, move its main office or relocate a branch.

* * * * *

(c) *Special procedures for remote service facilities.* (1) For purposes of this section, *establishing* means owning or leasing a remote service facility either individually or jointly.

(2) An insured state nonmember bank or an insured state-licensed branch of a foreign bank whose most recent Community Reinvestment Act rating is Satisfactory or better and who desires to establish and operate or relocate a remote service facility (RSF) shall file a letter with the appropriate regional director. The letter shall contain the exact location of the proposed or relocated RSF, including street address (unless one has not been assigned to the location), and either a representation that the site of the proposed or relocated RSF is not included in or eligible for inclusion in the National Register of Historic Places or written verification that in the opinion of the appropriate state historic preservation officer the establishment or relocation of the RSF will have no adverse effect on a historic site. Unless the institution is notified otherwise by the FDIC within seven days of receipt of the letter, the institution may establish and operate or relocate the RSF. In the event that the institution cannot represent in good faith that the site of the proposed or relocated RSF is not included in or eligible for inclusion in the National Register of Historic Places or evidence that written verification has been obtained from the appropriate state historic preservation officer, the institution shall proceed pursuant to paragraph (c)(3) of this section.

(3) An insured state nonmember bank or an insured state-licensed branch of a foreign bank whose most recent Community Reinvestment Act rating is not Satisfactory or better and who desires to establish and operate or relocate an RSF shall file the letter described in paragraph (c)(2) of this section and comply with the notice provisions of § 303.6(f). Unless the institution is notified otherwise by the FDIC within 15 days after completion of processing of the letter, the institution may establish and operate or relocate the RSF; provided however, that in the event that a protest is filed with the FDIC or other objection is taken prior to completion of processing the letter, the institution shall not establish and operate or relocate the RSF until the FDIC provides written notice of its approval.

3. Section 303.6 is amended by removing and reserving footnote 5 and by revising paragraphs (a)(2), (a)(3), the heading of paragraph (f)(1)(ii)(A), and paragraph (f)(2) to read as follows:

§ 303.6 Application procedures.

(a) * * *

(2) Applications by insured state nonmember banks to establish branches, including applications to establish remote service facilities by banks whose most recent Community Reinvestment Act rating is not Satisfactory or better or who cannot represent compliance with the National Historic Preservation Act;

(3) Applications by insured state nonmember banks to move their main office or relocate their branch offices, including applications to relocate remote service facilities by banks whose most recent Community Reinvestment Act rating is not Satisfactory or better or who cannot represent compliance with the National Historic Preservation Act;

* * * * *

(f) * * *

(1) * * *

(ii) * * *

(A) *Applications to establish a branch, including a remote service facility.* * * *

* * * * *

(2) *Notice by posting.* In the case of applications to move a main office or relocate a branch, in addition to the notice by publication described in paragraph (f)(1) of this section, notice of the publication shall be posted in the public lobby of the office(s) to be moved or relocated, if such public lobby exists, for at least 21 days beginning with the date of the last published notice

required by paragraph (f)(1) of this section for applications to move a main office; and for at least 15 days beginning with the date of the publication notice required by paragraph (f)(1) of this section for applications to relocate a branch.

* * * * *

By order of the Board of Directors.

Dated at Washington, D.C., this 9th day of August, 1994.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Acting Executive Secretary.

[FR Doc. 94–20535 Filed 8–22–94; 8:45 am]

BILLING CODE 6714-01-P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 101, 111, 123, 128, 141, 143, 145, 148, 159

[T.D. 94–71]

RIN 1515–AB53

Express Consignments; Formal and Informal Entries of Merchandise; Administrative Exemptions

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Interim regulations; Notice of Effective Date.

SUMMARY: This document gives notice that the interim regulations regarding express consignments, formal and informal entries of merchandise and administrative exemptions which were published in the **Federal Register** on June 13, 1994, will become effective on August 23, 1994. A motion for a preliminary injunction which would have prevented Customs from implementing and making effective these interim regulations was denied by the United States Court of International Trade on August 16, 1994. The temporary restraining order which was issued on July 25, 1994, enjoining Customs from implementing and making effective the interim regulations on its scheduled effective date of July 28, 1994, pending the decision on the motion for the preliminary injunction, has expired.

DATES: The effective date of the interim regulations published at 59 FR 30289 is August 23, 1994.

FOR FURTHER INFORMATION CONTACT: William G. Rosoff, Office of Regulations and Rulings (202) 482–7040.

SUPPLEMENTARY INFORMATION:

On June 13, 1994, a document was published by U.S. Customs in the **Federal Register** (59 FR 30289) as T.D. 94–51 setting forth interim regulations implementing certain statutory amendments to the Customs laws contained in the Customs modernization provisions of the North American Free Trade Agreement Implementation Act and clarifying certain procedures for low-value shipments brought into the U.S.

The document provided for a 45-day delayed effective date, with a 30-day comment period preceding that effective date. The effective date was to become July 28, 1994, and comments were requested by July 13, 1994.

On July 25, 1994, the National Customs Brokers and Forwarders Association of America, Inc. filed a motion for a temporary restraining order with the United States Court Of International Trade (Court No: 94–07–00423). Pursuant to the motion, the temporary restraining order was issued by the court; consequently, Customs was restrained and enjoined from implementing and making effective the interim regulations. A document was published in the **Federal Register** (59 FR 38548) on July 28, 1994, informing the public that the effective date of the interim regulations was delayed.

A hearing on the motion for a preliminary injunction was held on August 9, 1994. On August 16, 1994, the Court of International Trade issued a decision (Slip. Op. 94–129) denying the motion and dismissing the case. Consequently, the temporary restraining order has expired and Customs is no longer restrained from making the interim regulations published as T.D. 94–51 effective. This document is notice that the interim regulations will become effective on August 23, 1994.

Customs will complete its ongoing analysis of all substantive comments received in response to the request for comments in the interim regulations before Customs issues final regulations on the subject matter.

Dated: August 18, 1994.

Samuel H. Banks,

Assistant Commissioner, Office of Commercial Operations.

[FR Doc. 94–20648 Filed 8–18–94; 12:45 pm]

BILLING CODE 4820-02-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

RIN 0960–AD61

Supplemental Security Income for the Aged, Blind, and Disabled; Treatment of Promissory Notes in Home Replacement Situations

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: This regulation explains how the Social Security Administration treats promissory notes and similar installment sales contracts and the proceeds generated therefrom when received as a result of the sale of a home which is excluded from resources under the supplemental security income (SSI) program. This regulation provides for application of the "home replacement exclusion" in situations where timely reinvestment of the installments into another home, which is similarly excludable as the principal place of residence, is made.

EFFECTIVE DATE: This final regulation is effective August 23, 1994.

FOR FURTHER INFORMATION CONTACT: Regarding this **Federal Register** document—Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1762; regarding eligibility or filing for benefits—our national toll-free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION:

Section 1613(a)(1) of the Social Security Act (the Act) excludes an individual's home from resources for purposes of determining eligibility for SSI payments. Further, § 416.1212(d) of our regulations allows the proceeds from the sale of an excluded home to be excluded from resources to the extent the proceeds are intended to be used and are, in fact, used within 3 months of the date of their receipt to purchase a replacement home which is similarly excluded. When that regulation was published in 1975, conventional financial arrangements were the norm. It was reasonable to expect an individual to receive the full purchase price of the former home in cash and to reinvest fully and immediately all cash proceeds from the sale. Therefore, no provision was included in the regulations for the treatment of home purchase financing other than full cash payment at or near the time of sale. Over the years, however, less conventional arrangements involving proceeds other than cash (such as promissory notes or installment sales contracts) have become more common.

Under our regulations defining resources in the SSI program at § 416.1201, promissory notes or installment sales contracts received as proceeds from the sale of a home are considered resources as long as the SSI claimant owns them and has the legal right to convert them to cash to be used for his or her support and maintenance. Such instruments can be excluded, however, under § 416.1212(d) if they are converted to cash and used for the purchase of a replacement home within 3 months of receipt of the note or contract. In fact, prior to September 1989, we required that they be so converted in order to be considered an excluded resource. Accordingly, under this interpretation, the claimant's options were limited to selling the house for cash (possibly below market value) or liquidating the promissory note or installment sales contract likely at a substantial loss. Either of these options could have jeopardized the opportunity to acquire or maintain a replacement home without losing SSI eligibility.

On September 11, 1986, the United States Court of Appeals for the Ninth Circuit rejected this interpretation of § 416.1212(d) in the case of *Hart* v. *Bowen*, 799 F.2d 567. The *Hart* case involved an individual who sold her home under an installment sales contract. She applied the downpayment she received toward the downpayment on a new home. She also applied each of the monthly installment payments she received toward the mortgage on the new home. Her SSI benefits were terminated because the installment contract from the sale of her former home constituted an excess resource. The Ninth Circuit Court of Appeals found that the current market value of an installment sales contract resulting from the sale of an individual's excluded home is part of the value of the replacement home and thus excluded from countable resources, provided the payments generated by the contract were reinvested timely in the excluded replacement home. In May 1987, as a result of the decision rendered by the Ninth Circuit in *Hart* v. *Bowen*, we issued Acquiescence Ruling AR 87–3(9) to comply with the decision in the Ninth Circuit States.

In September 1989, we changed our national practice and published Social Security Ruling SSR 89–5p, effective September 6, 1989. The ruling explained that the value of an installment sales contract constitutes a "proceed" from the sale of an excluded home which can be excluded from resources under § 416.1212(d) if: (a) the contract results from the sale of an individual's home as described in § 416.1212(a); (b) within 3 months of receipt (execution) of the contract, the individual purchases a replacement home which also fits the description in § 416.1212(a); and (c) all contract generated sale proceeds are reinvested in the replacement home within 3 months of receipt of such proceeds. In addition, the ruling provided that when payments against the principal that result from the installment sales contract are being reinvested timely (i.e., within 3 months of receipt) in a new home, such payments are also excluded from resources. The ruling further provided that if the home replacement exclusion is not applicable because one or more installment payments have not been timely reinvested, the exclusion may be applied effective with the month following the month of receipt of a timely reinvested payment.

This regulation codifies SSR 89–5p and reflects more completely our policy on the treatment of proceeds from the sale of an excluded home by designating the existing text in § 416.1212 paragraph (d) as paragraph (d)(1), and adding two new paragraphs (d)(2) and (d)(3), to explain the conditions under which the value of a promissory note or similar installment sales contract, and other proceeds from the sale, consisting of the downpayment and monthly installment payments towards the principal, will be excluded from being considered SSI resources. In addition, we are adding new paragraphs (e), (f), and (g) to § 416.1212 to explain the effects on SSI eligibility of failure to reinvest installment payments timely and the receipt of interest payments. When this final rule is published both SSR 89–5p and AR 87–3(9) will be rescinded.

Public Comments

We published the proposed rule with a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on October 13, 1993 (58 FR 52943). Interested persons and organizations were given 60 days to comment. The comment period closed on December 13, 1993. We received comments from only one commenter.

We considered carefully all of the comments which this individual made on the proposed rule. However, for the reasons stated below, we did not adopt any of them. Accordingly, the final rule is the same as the proposed rule. A summary of the comments and our responses are provided below.

Comment: The commenter disagreed with the policy to allow a person only 3 months to reinvest the proceeds from the sale of an excluded home into another home since the purchase of a home generally represents one of the largest transactions a person may make, one which would require time to make a wise decision. Thus, the commenter believes that it makes sense to give a person more time. The period should be increased from 3 months to 6 months similar to the time allowed for the disposal of other resources, such as retroactive title II or title XVI payments.

Response: We do not plan to change the 3-month time period for reinvestment. The substance of our regulatory revision focuses on how to evaluate as resources certain noncash proceeds from the sale of an excluded home and not on the time period of reinvestment. The time period has been longstanding program policy which was not questioned in the *Hart* decision. We would expect that individuals selling their homes would arrange for the purchase of a new home before the former home is sold. In addition, we have no evidence to support the commenter's contention that the current time period for reinvestment is too short.

Comment: The commenter criticized the proposed policy to count as a resource the value of the note as well as any proceeds not timely invested as being an "overly harsh penalty." Because the individual has immediate access only to the proceeds of the note that are "on hand" to meet his or her basic needs and not the value of the note itself, the commenter believed that only the proceeds should be considered a resource.

Response: This policy is consistent with the relevant provisions of the Act and other related regulations. Under section 1611(a) of the Act, Congress specifically has established resource limits for an individual's eligibility for the needs-based benefits in the SSI program in addition to income limits. As was stated above, promissory notes or installment sales contracts received from the sale of an excluded home are resources, as described in § 416.1201, as long as the owner has the legal right to liquidate or convert the resource to cash which could be used for support and maintenance. In general, while it is true that some resources may not be available to be used immediately to meet an individual's daily needs, Congress has recognized that such resources have value in that they can be sold or "cashed out" and the money received can be used by the individual for his or her support and maintenance.

Comment: The commenter stated that the NPRM does not explain how the Agency will determine the value of a promissory note or similar installment sales contract.

Response: We provide general guidance on resource valuation procedures in paragraphs (b) and (c) of § 416.1201 of our regulations. These paragraphs explain how we evaluate liquid and nonliquid resources according to their equity value. For purposes of this evaluation, the equity value of a resource is defined as the price for which an item can reasonably be expected to sell on the open market in the particular geographic area involved minus any encumbrances. The value of a promissory note or installment sales contract will be determined by using this procedure.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that this rule does not meet the criteria for a significant regulatory action under E.O. 12866. Thus, it was not subject to OMB review.

Paperwork Reduction Act

This regulation imposes no reporting/recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities because this regulation affects only individuals and States. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act of 1980, is not required.

(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: July 5, 1994.

Shirley Chater,

Commissioner of Social Security.

Approved: August 16, 1994.

Donna E. Shalala,

Secretary of Health and Human Services.

For the reasons set out in the preamble, Part 416 of Chapter III of Title 20, Code of Federal Regulations, is amended as follows:

PART 416—[AMENDED]

1. The authority citation for Subpart L 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. Section 416.1212 is amended by redesignating the existing text in paragraph (d) as paragraph (d)(1), adding new paragraphs (d)(2) and (d)(3), and adding new paragraphs (e), (f) and (g) to read as follows:

§ 416.1212 Exclusion of the home.

* * * * *

(d) *Proceeds from the sale of an excluded home.*

(1) * * *

(2) The value of a promissory note or similar installment sales contract constitutes a "proceed" which can be excluded from resources if—

(i) The note results from the sale of an individual's home as described in § 416.1212(a);

(ii) Within 3 months of receipt (execution) of the note, the individual purchases a replacement home as described in § 416.1212(a) (see paragraph (e) of this section for an exception); and

(iii) All note-generated proceeds are reinvested in the replacement home within 3 months of receipt (see paragraph (f) of this section for an exception).

(3) In addition to excluding the value of the note itself, other proceeds from the sale of the former home are excluded resources if they are used within 3 months of receipt to make payment on the replacement home. Such proceeds, which consist of the downpayment and that portion of any installment amount constituting payment against the principal, represent a conversion of a resource.

(e) *Failure to purchase another excluded home timely.* If the individual does not purchase a replacement home within the 3-month period specified in paragraph (d)(2)(ii) of this section, the value of a promissory note or similar installment sales contract received from the sale of an excluded home is a countable resource effective with the first moment of the month following the month the note is executed. If the individual purchases a replacement home after the expiration of the 3-month period, the note becomes an excluded resource the month following the month of purchase of the replacement home provided that all other proceeds are fully and timely reinvested as explained in paragraph (f) of this section.

(f) *Failure to reinvest proceeds timely.* (1) If the proceeds (e.g., installment amounts constituting payment against the principal) from the sale of an excluded home under a promissory note or similar installment sales contract are not reinvested fully and timely (within 3 months of receipt) in a replacement home, as of the first moment of the month following receipt of the payment, the individual's countable resources will include:

(i) The value of the note; and

(ii) That portion of the proceeds, retained by the individual, which was not timely reinvested.

(2) The note remains a countable resource until the first moment of the month following the receipt of proceeds that are fully and timely reinvested in the replacement home. Failure to reinvest proceeds for a period of time does not permanently preclude exclusion of the promissory note or installment sales contract. However, previously received proceeds that were not timely reinvested remain countable resources to the extent they are retained.

Example 1. On July 10, an SSI recipient received his quarterly payment of $200 from the buyer of his former home under an installment sales contract. As of October 31, the recipient has used only $150 of the July payment in connection with the purchase of a new home. The exclusion of the unused $50 (and of the installment contract itself) is revoked back to July 10. As a result, the $50 and the value of the contract as of August 1, are included in a revised determination of resources for August and subsequent months.

Example 2. On April 10, an SSI recipient received a payment of $250 from the buyer of his former home under an installment sales contract. On May 3, he reinvested $200 of the payment in the purchase of a new home. On May 10, the recipient received another $250 payment, and reinvested the full amount on June 3. As of July 31, since the recipient has used only $200 of the April payment in connection with the purchase of the new home, the exclusion of the unused $50 (and of the installment contract itself) is revoked back to April 10. As a result, the $50 and the value of the contract as of May 1 are includable resources. Since the recipient fully and timely reinvested the May payment, the installment contract and the payment are again excludable resources as of June 1. However, the $50 left over from the previous payment remains a countable resource.

(g) *Interest payments.* If interest is received as part of an installment payment resulting from the sale of an excluded home under a promissory note or similar installment sales contract, the interest payments do not represent conversion of a resource. The interest is income under the provisions of §§ 416.1102, 416.1120, and 416.1121(c).

[FR Doc. 94–20629 Filed 8–22–94; 8:45 am]

BILLING CODE 4190–29–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA9–7–5473; FRL–5052–4]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Revised Good Engineering Practice Stack Height Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This revision establishes that the degree of emission limitation required for the control of any air pollutant is not affected by that portion of the stack height which exceeds good engineering practice (GEP) or by any other dispersion technique. The revision is consistent with the stack height provisions under EPA's "Requirements for Preparation, Adoption and Submittal of Implementation Plans—Control Strategy." The intended effect of this action is to approve a SIP revision consisting of a stack height regulation adopted by the Commonwealth of Virginia. This action is being taken under section 110 of the Clean Air Act.

EFFECTIVE DATE: This final rule will become effective on September 22, 1994.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and Virginia Department of Environmental Quality, 629 East Main Street, P.O. Box 10089, Richmond, Virginia 23240.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford, (215) 597–1325.

SUPPLEMENTARY INFORMATION: On October 19, 1987 (52 FR 38787), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed approval of revisions to parts I, IV and V of Virginia's Regulations for the Control and Abatement of Air Pollution governing numerous revisions including good engineering practice (GEP) stack height provisions. No public comments were received on the NPR. The formal SIP revision had been submitted to EPA by Virginia on May 12, 1986. Virginia had adopted this regulation to conform to the July 8, 1985 promulgation of the revised GEP stack height regulation.

Virginia's SIP revision request consists of amendments to its regulations that restrict the degree to which industrial sources of air pollution may rely on dispersion pollution, using tall smoke stacks and other techniques as substitutes for constant emission controls.

Revisions to Part I—Definitions

Revised

Dispersion Technique, Elevated Terrain, Excessive Concentrations, GEP Stack Height, Nearby, Stack, Stack in Existence

Deleted

Elevated Terrain, Plume Impaction

Revisions to Part IV—Control of Emissions from Existing Sources

REVISED REGULATION: Section 120–02–04I.

The amended provisions reflect the revised the definition of the term "GEP stack height." The amended provisions also specifically exempt the following classes of sources:

1. Stack heights in existence as of 12/31/70, except where pollutants are being emitted or using dispersion techniques which were constructed, reconstructed, or carried out after 12/31/70.

2. Coal-fired steam electric generating units subject to the provisions of section 118 of the Clean Air Act, which commenced operation before 7/1/57, and whose stacks were constructed under a contract awarded before 2/8/74.

Revisions to Part V—New and Modified Sources

REVISED REGULATION: Section 120–05–02H.

EPA Evaluation

EPA has evaluated Virginia's SIP revision request and has concluded the following: (1) The GEP stack height requirements will not adversely affect Virginia's ability to enforce the currently applicable emission limits which adequately protect the national ambient air quality standards (NAAQS); (2) the GEP stack height requirements are clearly enforceable; and (3) the applicable requirements of 40 CFR part 51 have been met. A more detailed evaluation is provided in a Technical Support Document available upon request from the Regional EPA office listed in the ADDRESSES section of this document.

Final Action

EPA is approving Virginia's GEP stack height provisions submitted on May 16, 1986 as a revision to the Virginia SIP.

The Agency has reviewed this request for revision of the Federally-approved State implementation plan for conformance with the provisions of the 1990 amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 24, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving Virginia's GEP stack height regulations may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.