Authority: 49 U.S.C. app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective October 13, 1994*

Galena, AK, Galena, ILS/DME RWY 25 Amdt 1
Chandler, AZ, Williams Gateway, VOR RWY 30C, Orig, Cancelled
Chandler, AZ, Williams Gateway, ILS RWY 30C, Orig, Cancelled
Phoenix, AZ, Williams Gateway, VOR OR TACAN RWY 30C, Orig
Phoenix, AZ, Williams Gateway, ILS RWY 30C, Orig
San Francisco, CA, San Francisco Intl, VOR RWY 19L, Amdt 8
Lakeland, FL, Lakeland Linder Regional, VOR RWY 9, Amdt 2
Albany, GA, Southwest Georgia Regional, VOR OR TACAN RWY 16, Amdt 25
Albany, GA, Southwest Georgia Regional, LOC BC RWY 22, Amdt 7
Albany, GA, Southwest Georgia Regional, NDB RWY 4, Amdt 11
Albany, GA, Southwest Georgia Regional, ILS RWY 4, Amdt 10
Albany, GA, Southwest Georgia Regional, VOR/DME RNAV RWY 34, Amdt 4
Cahokia/St Louis, IL, St Louis Downtown-Parks, NDB RWY 30L, Amdt 17
Cahokia/St Louis, IL, St Louis Downtown-Parks, ILS RWY 30L, Amdt 6
Cairo, Cairo, IL, NDB or GPS RWY 14, Amdt 1
Fort Madison, IA, Fort Madison Muni, VOR/DME–A, Amdt 6
Dodge City, KS, Dodge City Regional, VOR RWY 14, Amdt 18
Dodge City, KS, Dodge City Regional, VOR/DME OR GPS RWY 32, Amdt 4
Dodge City, KS, Dodge City Regional, ILS RWY 14, Amdt 2
Harper, KS, Harper Muni, VOR–B, Amdt 1
Larned, KS, Larned-Pawnee County, NDB RWY 17, Amdt 3
Pratt, KS, Pratt Industrial, NDB RWY 17, Amdt 4
Danville, KY, Stuart Powell Field, LOC/DME RWY 30, Orig
Danville, KY, Stuart Powell Field, NDB–A, Amdt 6
Charleston, MO, Mississippi County, NDB RWY 36, Amdt 3
Sikeston, MO, Sikeston Memorial Muni, VOR/DME RWY 2, Amdt 1
Sikeston, MO, Sikeston Memorial Muni, VOR OR GPS RWY 20, Amdt 3
Sikeston, MO, Sikeston Memorial Muni, NDB RWY 20, Amdt 8
Beatrice, NE, Beatrice Muni, VOR OR GPS RWY 13, Amdt 16
Beatrice, NE, Beatrice Muni, VOR OR GPS RWY 35, Amdt 6
Beatrice, NE, Beatrice Muni, NDB RWY 13, Amdt 8
Beatrice, NE, Beatrice Muni, NDB–A, Amdt 3
Falls City, NE, Brenner Field, NDB–A, Amdt 3
Hebron, NE, Hebron Muni, NDB RWY 12, Amdt 3
Millville, NJ, Millville Muni, VOR/DME RNAV RWY 32, Amdt 1
Santa Fe, NM, Santa Fe County Muni, ILS RWY 2, Amdt 4
Enid, OK, Enid Woodring Muni, VOR or GPS RWY 17, Amdt 12
Enid, OK, Enid Woodring Muni, VOR or GPS RWY 35, Amdt 13
Enid, OK, Enid Woodring Muni, NDB RWY 35, Amdt 6
Enid, OK, Enid Woodring Muni, ILS RWY 35, Amdt 4
Fairview, OK, Fairview Muni, NDB OR GPS RWY 17, Amdt 4
Nashville, TN, Nashville Intl, ILS RWY 2R, Amdt 4
Marshfield, WI, Marshfield Muni, SDF RWY 34, Amdt 6
Mosinee, WI, Central Wisconsin, VOR/DME or GPS RWY 35, Amdt 7
Stevens Point, WI, Stevens Point Muni, VOR/DME RWY 3, Amdt 14
Stevens Point, WI, Stevens Point Muni, VOR RWY 21, Amdt 18
Stevens Point, WI, Stevens Point Muni, VOR RWY 30, Amdt 17
Wausau, WI, Wausau Muni, VOR–A, Amdt 18
Wisconsin Rapids, WI, Alexander Field-South Wood County, VOR/DME–A, Amdt 9
Wisconsin Rapids, WI, Alexander Field-South Wood County, SDF RWY 2, Amdt 4
Wisconsin Rapids, WI, Alexander Field-South Wood County, NDB RWY 2, Amdt 5
Wisconsin Rapids, WI, Alexander Field-South Wood County, NDB RWY 29, Amdt 8

** * * Effective September 15, 1994*

Windsor Locks, CT, Bradley International, ILS RWY 6, Amdt 31
Waycross, GA, Waycross-Ware County, LOC RWY 18, Amdt 3, Cancelled
Waycross, GA, Waycross-Ware County, ILS RWY 18, Orig
Savanna, IL, Tri-Township, VOR/DME–A, Orig
Peru, IN, Peru Muni, VOR RWY 1, Amdt 6
Worcester, MA, Worcester Muni, LOC RWY 29, Amdt 2
Worcester, MA, Worcester Muni, NDB or GPS RWY 11, Amdt 19
Worcester, MA, Worcester Muni, NDB or GPS RWY 29, Amdt 11
Worcester, MA, Worcester Muni, ILS RWY 11, Amdt 20
Kansas City, MO, Richards-Gebaur, ILS 2 RWY 36, Orig, Cancelled
Concord, NC, Concord Regional, VOR/DME–A, Orig
Concord, NC, Concord Regional, VOR/DME RWY 20, Orig
Cadiz, OH, Harrison County, NDB RWY 13, Amdt 4, Cancelled
Cadiz, OH, Harrison County, VOR–A, Orig
Columbus, OH, Port Columbus Intl, ILS RWY 10L, Amdt 16
North Kingstown, RI, Quonset State, NDB RWY 16, Amdt 2

Note: The FAA published an Amendment in Docket No. 27828, Amdt. No. 1612 to Part 97 of the Federal Aviation Regulations (VOL 59, FR No. 140, Page 37416; dated Friday, July 22, 1994 under section 97.23, Effective 13 OCT 94 which is hereby amended as follows:

Jamestown, NY, Chautauqua County, VOR/DME RNAV RWY 13, Amdt 3 change to Jamestown, NY, Chautauqua County/Jamestown, VOR/DME RNAV RWY 13, Amdt 3
Jamestown, NY, Chautauqua County, VOR/DME RNAV RWY 31, Amdt 2 change to Jamestown, NY, Chautauqua County/Jamestown, VOR/DME RNAV RWY 31, Amdt 2

[FR Doc. 94–21532 Filed 8–30–94; 8:45 am]
BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 27866; Amdt. No. 1619]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Form 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAPs contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with Global Positioning System (GPS) equipment. In consideration of the above, the applicable Standard Instrument Approach Procedures (SIAPs) will be altered to include "or GPS" in the title without otherwise reviewing or modifying the procedure. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on August 12, 1994.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.27, 97.33, and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.27 NDB, NDB/DME; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective October 13, 1994*

Emmonak, AK, Emmonak, VOR or GPS RWY 34, Orig.
Emmonak, AK, Emmonak, VOR or GPS RWY 16, Orig.
Fairbanks, AK, Fairbanks Intl, NDB or GPS RWY 19R, Amdt. 17
Fairbanks/Ft Wainwright, AK, Wainwright AAF, NDB or GPS–A, Amdt. 1
Fort Yukon, AK, Fort Yukon, VOR/DME or TACAN or GPS RWY 3, Amdt. 1A
Fort Yukon, AK, Fort Yukon, VOR/DME or TACAN or GPS RWY 21, Amdt. 1A
Nome, AK, Nome, VOR or GPS RWY 27, Orig. A
Nome, AK, Nome, VOR/DME or GPS RWY 9, Orig. B
Yakutat, AK, Yakutat, VOR/DME or GPS RWY 2, Orig. A
Auburn, AL, Auburn-Opelika Robert G. Pitts, VOR/DME or GPS–A, Amdt. 6
Auburn, AL, Auburn-Opelika Robert G. Pitts, RNAV or GPS RWY 36, Amdt. 3
Auburn, AL, Auburn-Opelika Robert G. Pitts, VOR or GPS RWY 28, Amdt. 9
Mobile, AL, Mobile Regional, NDB or GPS RWY 14, Amdt. 2
Mobile, AL, Mobile Regional, VOR or TACAN or GPS–A, Orig.
Talladega, AL, Talladega Muni, VOR or GPS–A, Amdt. 6
Talladega, AL, Talladega Muni, VOR/DME or GPS RWY 3, Amdt. 4
Almyra, AR, Almyra Muni, VOR/DME or GPS–A, Amdt. 4
Springdale, AR, Springdale Muni, VOR/DME or GPS RWY 36, Amdt. 7A
Springdale, AR, Springdale Muni, VOR or GPS RWY 18, Amdt. 13
Stuttgart, AR, Stuttgart Muni, NDB or GPS RWY 18, Amdt. 9
Stuttgart, AR, Stuttgart Muni, VOR/DME or GPS–A, Orig. A
Texarkana, AR, Texarkana Regional-Webb Field, NDB or GPS RWY 22, Amdt. 11
Texarkana, AR, Texarkana Regional-Webb Field, VOR or GPS RWY 13, Amdt. 14
West Memphis, AR, West Memphis Muni, VOR/DME or GPS–A, Amdt. 5
West Memphis, AR, West Memphis Muni, NDB or GPS–B, Amdt. 2
West Memphis, AR, West Memphis Muni, NDB or GPS RWY 17, Amdt. 9
Tucson, AZ, Ryan Field, NDB/DME or GPS RWY 6R, Amdt. 1

Tucson, AZ, Ryan Field, NDB or GPS–D, Amdt. 1
Los Angeles, CA, Whiteman, VOR or GPS–A, Amdt. 1
Palm Springs, CA, Thermal, VOR or GPS–A, Orig.
Palm Springs, CA, Thermal, VOR/DME or GPS RWY 30, Orig.
Paso Robles, CA, Paso Robles Muni, VOR/DME or GPS RWY 19, Amdt. 3
Paso Robles, CA, Paso Robles Muni, VOR/DME or GPS–B, Amdt. 2
Paso Robles, CA, Paso Robles Muni, VOR or GPS–A, Amdt. 1
Riverside, CA, Riverside Muni, VOR or GPS–A, Amdt. 4
Riverside, CA, Riverside Muni, VOR or GPS–B, Orig.
Riverside, CA, Riverside Muni, VOR or GPS RWY 9, Amdt. 9
Santa Ynez, CA, Santa Ynez, VOR or GPS–B, Amdt. 7
Shafter, CA, Shafter-Minter Field, VOR or GPS RWY 30, Orig.
South Lake Tahoe, CA, Lake Tahoe, VOR/DME or GPS–A, Amdt. 3
Stockton, CA, Stockton Metropolitan, VOR or GPS RWY 29R, Amdt. 18
Torrance, CA, Zamperini Field, VOR or GPS RWY 11L, Amdt. 14
Erie, CO, Tri-County, VOR/DME or GPS–A, Amdt. 2
Monte Vista, CO, Monte Vista Muni, NDB or GPS RWY 20, Orig.
Monte Vista, CO, Monte Vista Muni, VOR/DME or GPS–A, Amdt. 2
Danielson, CT, Danielson, VOR or GPS–A, Amdt. 3
Hartford, CT, Hartford-Brainard, VOR or GPS–A, Amdt. 9A
Madison, CT, Griswold, VOR or GPS–A, Amdt. 7
Oxford, CT, Waterbury-Oxford, NDB or GPS RWY 36, Amdt. 6
Willimantic, CT, Windham, VOR or GPS–A, Amdt. 7
Middletown, DE, Summit Airpark, VOR or GPS–B, Amdt. 1
Middletown, DE, Summit Airpark, NDB or GPS–A, Amdt. 6
Lakeland, FL, Lakeland Linder Regional, NDB or GPS RWY 5, Amdt. 2
Lakeland, FL, Lakeland Linder Regional, VOR or GPS RWY 27, Amdt. 5
Lakeland, FL, Lakeland Linder Regional, VOR or GPS RWY 9, Amdt. 1
Pompano Beach, FL, Pompano Beach Airpark, VOR or GPS RWY 14, Amdt. 8A
Punta Gorda, FL, Charlotte County, VOR or GPS RWY 21, Amdt. 3
Punta Gorda, FL, Charlotte County, VOR or GPS RWY 3, Orig.
Tampa, FL, Tampa Intl, NDB or GPS RWY 36L, Amdt. 13A
Tampa, FL, Tampa Intl, VOR or GPS RWY 9, Amdt. 7A
Tampa, FL, Tampa Intl, NDB or GPS RWY 18L, Amdt. 32A
Atlanta, GA, The William B. Hartsfield Atlanta Intl, VOR or GPS RWY 27L, Amdt. 4
Cartersville, GA, Cartersville, VOR/DME or GPS–A, Amdt. 1
Cartersville, GA, Cartersville, NDB or GPS RWY 19, Amdt. 3
Cedartown, GA, Cornelius-Moore Field, RNAV or GPS RWY 10, Amdt. 2A
Cedartown, GA, Cornelius-Moore Field, RNAV or GPS RWY 28, Amdt. 2
Cedartown, GA, Cornelius-Moore Field, VOR or GPS–A, Amdt. 12A
Elberton, GA, Elbert County-Patz Field, VOR/DME or GPS RWY 10, Amdt. 2A
Jefferson, GA, Jackson County, VOR/DME or GPS RWY 34, Orig.
Perry, GA, Perry-Fort Valley, VOR or GPS–A, Amdt. 4
Perry, GA, Perry-Fort Valley, NDB or GPS RWY 36, Amdt. 2
Lanai City, HI, Lanai, VOR or TACAN or GPS RWY 3, Amdt. 6
Lanai City, HI, Lanai, VOR or TACAN or GPS–A, Amdt. 8
Dubuque, IA, Dubuque Regional, VOR or GPS RWY 13, Amdt. 8
Dubuque, IA, Dubuque Regional, NDB or GPS RWY 31, Amdt. 8
Dubuque, IA, Dubuque Regional, VOR or GPS RWY 36, Amdt. 5
Fairfield, IA, Fairfield Muni, VOR/DME RNAV or GPS RWY 18, Amdt. 1B
Forest City, IA, Forest City Muni, RNAV or GPS RWY 33, Orig–A
Forest City, IA, Forest City Muni, VOR/DME or GPS–A, Amdt. 2B
Fort Dodge, IA, Fort Dodge Regional, RNAV or GPS RWY 24, Amdt. 5
Fort Dodge, IA, Fort Dodge Regional, VOR/DME or GPS RWY 30, Amdt. 9
Fort Dodge, IA, Fort Dodge Regional, VOR or GPS RWY 12, Amdt. 14
Fort Dodge, IA, Fort Dodge Regional, RNAV or GPS RWY 6, Amdt. 6
Sibley, IA, Sibley Muni, NDB or GPS RWY 17, Amdt 1
Sibley, IA, Sibley Muni, NDB or GPS RWY 35, Amdt 1
Sioux Center, IA, Sioux Center Muni, NDB or GPS RWY 17, Amdt. 4
Sioux City, IA, Sioux Gateway, VOR or TACAN or GPS RWY 31, Amdt. 25A
Sioux City, IA, Sioux Gateway, VOR/DME or TACAN or GPS RWY 13, Amdt. 17A
Burley, ID, Burley Muni, VOR or GPS–A, Amdt. 3
Burley, ID, Burley Muni, VOR/DME or GPS–B, Amdt. 3
Chicago/Aurora, IL, Aurora Muni, VOR or GPS RWY 36, Amdt. 1
Chicago/Aurora, IL, Aurora Muni, VOR/DME RNAV or GPS RWY 27, Orig.
Chicago/Aurora, IL, Aurora Muni, VOR or GPS–A, Amdt. 1
Chicago, IL, Chicago Midway, NDB or GPS RWY 31C, Amdt. 14
Chicago, IL, Chicago Midway, VOR/DME RNAV or GPS RWY 22L, Amdt. 3
Chicago, IL, Chicago Midway, NDB or GPS RWY 4R, Amdt. 12
Lincoln, IL, Logan County, VOR or GPS RWY 3, Amdt. 6
Lincoln, IL, Logan County, NDB or GPS RWY 21, Amdt. 1
Litchfield, IL, Litchfield Muni, NDB or GPS RWY 9, Amdt. 4
Litchfield, IL, Litchfield Muni, NDB or GPS RWY 27, Amdt. 6
Macomb, IL, Macomb Muni, NDB or GPS RWY 27, Amdt. 2
Macomb, IL, Macomb Muni, VOR/DME or GPS–A, Amdt. 7
Connersville, IN, Mettel Field, RNAV or GPS RWY 18, Amdt. 5
Connersville, IN, Mettel Field, VOR/DME or GPS–A, Amdt. 5
Kentland, IN, Kentland Muni, VOR or GPS–A, Amdt. 3
Kentland, IN, Kentland Muni, RNAV or GPS RWY 27, Orig.
La Porte, IN, La Porte Muni, VOR or GPS–A, Amdt. 5
La Porte, IN, La Porte Muni, RNAV or GPS RWY 20, Amdt. 4
Wabash, IN, Wabash Muni, VOR or GPS–A, Amdt. 9
Wabash, IN, Wabash Muni, NDB or GPS RWY 27, Amdt. 11
Winamac, IN, Arens Field, VOR/DME or GPS–A, Amdt. 4
Winamac, IN, Arens Field, NDB or GPS RWY 9, Orig.
Beloit, KS, Moritz Memorial, VOR/DME or GPS RWY 17, Amdt 3
Hays, KS, Hays Muni, NDB or GPS RWY 34, Amdt. 2
Hays, KS, Hays Muni, VOR or GPS RWY 16, Amdt. 3
Kingman, KS, Kingman Muni, VOR/DME or GPS RWY 18, Amdt. 1
Ottawa, KS, Ottawa Muni, NDB or GPS RWY 35, Amdt. 2
Wichita, KS, Beech Factory, RNAV or GPS RWY 18, Orig.
Wichita, KS, Beech Factory, RNAV or GPS RWY 36, Orig.
Wichita, KS, Beech North, VOR or GPS–D, Orig.
Wichita, KS, Colonel James Jabara, VOR or GPS–A, Amdt. 1
Wichita, KS, Colonel James Jabara, RNAV or GPS RWY 18, Amdt. 1
Louisville, KY, Standiford Field, NDB or GPS RWY 1, Amdt. 8
Louisville, KY, Standiford Field, NDB or GPS RWY 29, Amdt. 19
Richmond, KY, Madison, VOR/DME or GPS RWY 18, Amdt. 4
Richmond, KY, Madison, VOR/DME RNAV or GPS RWY 36, Amdt. 6
Russellville, KY, Russellville-Logan County, VOR/DME or GPS, RWY 24, Amdt. 6
Baton Rouge, LA, Baton Rouge Metropolitan, Ryan Field, NDB or GPS RWY 31, Amdt. 1A
Bogalusa, LA, George R. Carr Memorial Air Field, NDB or GPS RWY 18, Amdt 3
Covington, LA, Greater St. Tammany, VOR/DME or GPS–A, Orig.
De Quincy, LA, De Quincy Industrial Airpark, NDB or GPS RWY 15, Amdt. 1
Slidell, LA, Slidell, VOR/DME or GPS RWY 18, Amdt. 3
Slidell, LA, Slidell, NDB or GPS RWY 36, Orig
Beverly, MA, Beverly Muni, NDB or GPS–A, Amdt. 12
Beverly, MA, Beverly Muni, VOR or GPS RWY 16, Amdt. 4
Hyannis, MA, Barnstable Muni-Boardman/Polando Field, NDB or GPS, RWY 24, Amdt. 9A
Fall River, MA, Fall River Muni, NDB or GPS RWY 24, Amdt. 8
Southbridge, MA, Southbridge Muni, VOR/DME or GPS–B, Amdt. 5
College Park, MD, College Park, VOR/DME RNAV or GPS RWY 15, Amdt. 1
Oakland, MD, Garrett County, VOR or GPS RWY 26, Amdt. 3

Eastport, ME, Eastport Muni, NDB or GPS RWY 33, Orig.
Eastport, ME, Eastport Muni, NDB or GPS RWY 15, Orig.
Allegan, MI, Padgham Field, VOR or GPS RWY 28, Amdt. 13
Baldwin, MI, Baldwin Muni, VOR/DME or GPS–A, Orig.
Charlotte, MI, Fitch H Beach, VOR or GPS RWY 20, Amdt. 1
Cheboygan, MI, Cheboygan City-County, VOR or GPS RWY 9, Amdt. 6
Coldwater, MI, Branch County Memorial, VOR or GPS RWY 6, Amdt. 3
Coldwater, MI, Branch County Memorial, VOR/DME or GPS RWY 24, Amdt. 3
Detroit, MI, Willow Run, NDB or GPS RWY 5R, Amdt. 1
Detroit, MI, Willow Run, VOR or GPS–A, Orig.
Jackson, MI, Jackson County-Reynolds Field, VOR or GPS RWY 32, Amdt. 17
Jackson, MI, Jackson County-Reynolds Field, VOR or GPS RWY 14, Amdt. 19
Kalamazoo, MI, Kalamazoo/Battle Creek Intl., VOR or GPS RWY 5, Orig.
Kalamazoo, MI, Kalamazoo/Battle Creek Intl., VOR or GPS RWY 23, Amdt. 17
Aitkin, MN, Aitkin Muni, NDB or GPS RWY 16, Amdt. 3
Austin, MN, Austin Muni, VOR/DME or GPS–A, Amdt. 1A
Duluth, MN, Duluth Intl, VOR or TACAN or GPS RWY 3, Amdt. 18
Duluth, MN, Duluth Intl, NDB or GPS RWY 9, Amdt. 23
Eveleth, MN, Eveleth-Virginia Muni, VOR/DME or GPS–A, Orig. A
Eveleth, MN, Eveleth-Virginia Muni, VOR or GPS RWY 27, Amdt. 10A
Fairmont, MN, Fairmont Muni, VOR or GPS RWY 31, Amdt. 7A
Fairmont, MN, Fairmont Muni, VOR or GPS RWY 13, Amdt. 4A
Minneapolis, MN, Flying Cloud, VOR or GPS RWY 9R, Amdt. 7
Minneapolis, MN, Flying Cloud, VOR or GPS RWY 36, Amdt. 11
Minneapolis, MN, Minneapolis-St Paul Intl (Wold Chamberlain), NDB or GPS RWY 29R, Amdt. 11
Owatonna, MN, Owatonna Muni, VOR or GPS RWY 12, Amdt. 8A
Park Rapids, MN, Park Rapids Muni, NDB or GPS RWY 31, Amdt. 1
Ava, MO, Ava Bill Martin Memorial, RNAV or GPS RWY 31, Amdt. 1
Ava, MO, Ava Bill Martin Memorial, VOR or GPS–A, Amdt. 1
Cape Girardeau, MO, Cape Girardeau Muni, NDB or GPS RWY 10, Amdt. 8A
Cape Girardeau, MO, Cape Girardeau Muni, VOR or GPS RWY 2, Amdt. 9
Columbia, MO, Columbia Regional, NDB or GPS RWY 2, Amdt. 8A
Columbia, MO, Columbia Regional, VOR or GPS RWY 13, Amdt. 2
Columbia, MO, Columbia Regional, VOR/DME or GPS RWY 20, Amdt. 2A
Warrensburg, MO, Skyhaven, VOR/DME or GPS–A, Orig.
Aberdeen-Amory, MS, Monroe County, VOR or GPS RWY 18, Amdt. 6
Bay St. Louis, MS, Stennis Intl, RNAV or GPS RWY 17, Amdt. 2
Bay St Louis, MS, Stennis Intl, VOR or GPS–A, Amdt. 5
Columbia, MS, Columbia-Marion County, VOR/DME or GPS RWY 23, Amdt. 4
Grenada, MS, Grenada Muni, NDB or GPS RWY 13, Amdt. 1
Meridian, MS, Key Field, VOR or GPS–A, Amdt. 15
Meridian, MS, Key Field, NDB or GPS RWY 1, Amdt. 19
Dillon, MT, Dillon, VOR or GPS–A, Amdt. 7
Dillon, MT, Dillon, VOR/DME or GPS–B, Amdt. 1
Livingston, MT, Mission Field, VOR or GPS–A, Amdt. 5
Livingston, MT, Mission Field, VOR/DME or GPS–B, Amdt. 1
Chapel Hill, NC, Horace Williams, VOR/DME RNAV or GPS RWY 9, Orig.
Chapel Hill, NC, Horace Williams, VOR/DME or GPS RWY 27, Orig–A
Fayetteville, NC, Fayetteville Regional/Grannis Field, VOR or GPS RWY 22, Amdt. 4
Fayetteville, NC, Fayetteville Regional/Grannis Field, NDB or GPS RWY 4, Amdt. 14
Walnut Cove, NC, Meadow Brook Field, VOR/DME or GPS RWY 34, Orig.
Erwin, NC, Harnett County, NDB or GPS RWY 22, Orig.
Erwin, NC, Harnett County, VOR/DME or GPS RWY 4, Amdt. 1A
Gastonia, NC, Gastonia Muni, VOR/DME or GPS–A, Amdt. 3
Gastonia, NC, Gastonia Muni, RNAV or GPS RWY 3, Amdt. 3
Greensboro, NC, May, VOR/DME or GPS–A, Amdt. 1
Dickinson, ND, Dickinson Muni, RNAV or GPS RWY 14, Amdt. 4
Dickinson, ND, Dickinson Muni, VOR or GPS–A, Amdt. 4
Dickinson, ND, Dickinson Muni, NDB or GPS RWY 32, Orig.
McCook, NE, McCook Muni, VOR or GPS RWY 30, Amdt. 9
McCook, NE, McCook Muni, VOR or GPS RWY 21, Amdt. 3
McCook, NE, McCook Muni, VOR or GPS RWY 12, Amdt. 10
Minden, NE, Pioneer Village Field, VOR or GPS RWY 34 Amdt. 1
North Platte, NE, North Platte Regional, VOR or GPS RWY 35, Amdt. 17
North Platte, NE, North Platte Regional, NDB or GPS RWY 39R, Amdt. 3
North Platte, NE, North Platte Regional NDB or GPS RWY 30L, Amdt. 9A
Manchester, NH, Manchester, NDB or GPS RWY 35, Amdt. 13
Andover, NJ, Aeroflex-Andover, VOR or GPS–A, Amdt. 7
Lumberton, NJ, Flying W, VOR or GPS–A, Amdt. 1
Matawan, NJ, Marlboro, VOR or GPS–A, Amdt. 1
Matawan, NJ, Marlboro, RNAV or GPS RWY 9, Amdt. 1
Sussex, NJ, Sussex, VOR or GPS–A, Amdt. 5A
Vincentown, NJ, Red Lion, VOR or GPS–A, Amdt. 5A
Clovis, NM, Clovis Muni, VOR or GPS RWY 22, Amdt. 3
Clovis, NM, Clovis Muni, NDB or GPS RWY 4, Amdt. 3
Roswell, NM, Roswell Industrial Air Center, RNAV or RWY 35, Amdt. 2
Roswell, NM, Roswell Industrial Air Center, NDB or GPS RWY 21, Amdt. 15
Roswell, NM, Roswell Industrial Air Center VOR or GPS–A, Amdt. 7
Lovelock, NV, Derby Field, VOR/DME or GPS–A, Orig.
Lovelock, NV, Derby Field, VOR or GPS–C, Orig.
Angola, NY, Angola, VOR/DME or GPS–A, Orig–B
Montgomery, NY, Orange County, NDB or GPS RWY 3, Amdt. 2
Rochester, NY, Greater Rochester International, NDB or GPS RWY 28, Amdt. 20
Rochester, NY, Greater Rochester International, VOR/DME or GPS RWY 4, Amdt. 1
Saranac Lake, NY, Adirondack Regional, VOR or GPS RWY 9, Orig.
Saranac Lake, NY, Adirondack Regional, VOR/DME or GPS RWY 5, Amdt. 2
Utica, NY, Oneida County, NDB or GPS RWY 15, Amdt. 9
Utica, NY, Oneida County, VOR/DME or GPS RWY 33, Amdt. 4
Ashtabula, OH, Ashtabula County, VOR or GPS RWY 8, Orig.
Ashtabula, OH, Ashtabula County, VOR/DME RNAV or GPS RWY 26, Amdt. 6
Batavia, OH, Clermont County, NDB or GPS RWY 22, Orig.
Batavia, OH, Clermont County, VOR or GPS–B, Amdt. 4
Cleveland, OH, Cuyahoga County, NDB or GPS RWY 23, Amdt. 7
Columbus, OH, Bolton Field, NDB or GPS RWY 4, Amdt. 6
Galion, OH, Galion Muni, VOR or GPS RWY 23, Amdt. 12
Galion, OH, Galion Muni, VOR/DME RNAV or GPS RWY 5, Amdt. 2
Kenton, OH, Hardin County, VOR/DME RNAV or GPS RWY 22, Amdt. 1
Kenton, OH, Hardin County, VOR or GPS–A, Amdt. 3
Painesville, OH, Casement, NDB or GPS–B, Amdt. 7
Piqua, OH, Piqua, VOR or GPS–A, Amdt. 11
Piqua, OH, Piqua VOR/DME RNAV or GPS RWY 26, Amdt. 6
Altus, OH, Altus Muni, VOR or GPS–V, Orig.
McAlester, OK, McAlester Regional, VOR/DME or GPS RWY 19, Amdt. 1
McAlester, OK, McAlester Regional, VOR or GPS–A, Amdt. 12
McAlester, OK, McAlester Regional, NDB or GPS RWY 1, Amdt. 2
Oklahoma City, OK, Wiley Post, VOR or GPS RWY 17L, Amdt. 11
Oklahoma City, OK, Wiley Post, VOR or GPS RWY 35E, Amdt. 2
Oklahoma City, OK, Wiley Post, VOR or GPS–A, Amdt. 2
Oklahoma City, OK, Will Rogers World, VOR or GPS RWY 17L, Amdt. 1
Oklahoma City, OK, Will Rogers World, NDB or GPS RWY 17R, Amdt. 24
Oklahoma City, OK, Will Rogers World, NDB or GPS RWY 35R, Amdt. 5
Portland, OR, Portland-Hillsboro, VOR/DME or GPS–A, Orig.
Portland, OR, Portland-Hillsboro, NDB or GPS–B, Amdt. 1
Sunriver, OR, Sunriver, VOR/DME or GPS RWY 18, Orig.

The Dalles, OR, The Dalles Muni, VOR/DME or GPS–A, Amdt. 4
Altoona, PA, Altoona-Blair County, VOR or GPS–A, Amdt. 3A
Annville, PA, Millard, VOR/DME or GPS–A, Amdt. 3
Bedford, PA, Bedford, VOR/DME or GPS–A, Amdt. 3
Bellefonte, PA, Bellefonte, VOR or GPS–A, Amdt. 1
Bloomsburg, PA, Bloomsburg Muni, VOR or GPS RWY 8, Amdt. 2
Wilkes-Barre/Scranton, PA, Wilkes-Barre/Scranton Intl, NDB or GPS–A, Amdt. 16
Block Island, RI, Block Island State, VOR or GPS RWY 28, Amdt. 3A
Block Island, RI, Block Island State, VOR/DME or GPS RWY 10, Amdt. 3A
Darlington, SC, Darlington County, VOR/DME or GPS–A, Amdt. 6
Darlington, SC, Darlington County, NDB or GPS RWY 23, Orig.
Rock Hill, SC, Rock Hill/York Co/Bryant Field, VOR or GPS–A, Amdt. 9
Rock Hill, SC, Rock Hill/York Co/Bryant Field, VOR/DME or GPS–B, Amdt. 5
Rock Hill, SC, Rock Hill/York Co/Bryant Field, VOR/DME RNAV or GPS RWY 2, Amdt. 4B
Arlington, TN, Arlington Muni, NDB or GPS RWY 15, Amdt. 7
Arlington, TN, Arlington Muni, NDB or GPS RWY 33, Amdt. 7
Sparta, TN, Upper Cumberland Regional, NDB or GPS RWY 4, Amdt. 3
Union City, TN, Everett-Stewart, VOR/DME or GPS–A, Amdt. 7
Amarillo, TX, Amarillo Intl, NDB or GPS RWY 4, Amdt. 16
Amarillo, TX, Tradewind, NDB or GPS–A, Amdt. 13
Beaumont/Port Arthur, TX, Jefferson County, VOR/DME or TACAN or GPS RWY 34, Amdt. 6
Beaumont/Port Arthur, TX, Jefferson County, VOR/DME or GPS–D, Amdt. 2
Beaumont/Port Arthur, TX, Jefferson County, VOR or GPS–A, Amdt. 6
Beaumont/Port Arthur, TX, Jefferson County, VOR or GPS–B, Amdt. 6
Beaumont/Port Arthur, TX, Jefferson County, VOR or GPS–C, Amdt. 5
Beaumont/Port Arthur, TX, Jefferson County, NDB or GPS RWY 12, Amdt. 18
Beeville, TX, Beeville Muni, VOR/DME or GPS RWY 12, Amdt. 5
Beeville, TX, Beeville Muni, NDB or GPS RWY 30, Amdt. 2
Big Lake, TX, Reagan County, NDB or GPS RWY 16, Amdt. 1
Center, TX, Center Muni, NDB or GPS RWY 17, Amdt. 1
Cleburne, TX, Cleburne Muni, VOR/DME or GPS–A, Amdt. 5
Cleburne, TX, Cleburne Muni, VOR/DME RNAV or GPS RWY 15, Amdt. 2
Cleburne, TX, Cleburne Muni, VOR/DME RNAV or GPS RWY 33, Amdt. 3
Dallas-Fort Worth, TX, Dallas/Fort Worth Intl, NDB or GPS RWY 17R, Amdt. 6A
Dallas-Fort Worth, TX, Dallas/Fort Worth Intl, NDB or GPS RWY 35R, Amdt. 8
Midland, TX, Midland Airpark, VOR/DME or GPS RWY 25, Amdt. 3
Midland, TX, Midland Airpark, VOR or GPS–A, Amdt. 2
Midland, TX, Midland Intl, NDB or GPS RWY 10, Amdt. 10
Midland, TX, Midland Intl, RNAV or GPS RWY 16R, Amdt. 2
Midland, TX, Midland Intl, RNAV or GPS RWY 34L, Amdt. 1
St George, UT, St George Muni, VOR/DME or GPS RWY 34, Amdt. 2
St George, UT, St George Muni, VOR or GPS–B Amdt. 2
Moses Lake, WA, Grant County, VOR or GPS RWY 4, Amdt. 5
Moses Lake, WA, Grant County, VOR or GPS RWY 22, Amdt. 4
Moses Lake, WA, Grant County, VOR or GPS RWY 32R, Amdt. 19
Moses Lake, WA, Grant County, VOR–3 or GPS RWY 14L, Orig.
Grantsburg, WI, Grantsburg Muni, VOR/DME–A, Amdt. 1
Wisconsin Rapids, WI, Alexander Field South Wood County, VOR/DME or GPS–A, Amdt. 8
Wisconsin Rapids, WI, Alexander Field South Wood County, NDB or GPS RWY 2, Amdt. 4
Wisconsin Rapids, WI, Alexander Field South Wood County, NDB or GPS RWY 29, Amdt. 7
Ravenswood, WV, Jackson County, VOR/DME or GPS RWY 3, Amdt. 2
Buffalo, WY, Johnson County, VOR/DME or GPS RWY 30, Amdt. 4

The following are *corrected* procedure titles adding "or GPS" published in transmittal letter 94–17.

Burlington, NC, Burlington-Alamance Regional, VOR or GPS, RWY 10, Amdt. 7
Columbia/Mount Pleasant, TN, Maury County, VOR/DME or GPS–A, Amdt. 3A

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

[Regulations Nos. 4 and 16]

RIN 0960–AD05

Deemed Application Date Based on Misinformation

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: We are adding new rules to our regulations on filing an application for Social Security or Supplemental Security Income (SSI) benefits to implement the provisions of section 10302 of the Omnibus Budget Reconciliation Act of 1989 (OBRA 1989), Pub. L. 101–239. Section 10302 added sections 202(j)(5) and 1631(e)(5) of the Social Security Act (the Act) to provide, in general, for the establishment of a "deemed" filing date of an application for benefits under title II or title XVI of the Act, respectively, in any case in which it is determined to the satisfaction of the Secretary that an individual failed to apply for monthly Social Security or SSI benefits because of misinformation provided to the individual by an officer or employee of the Social Security Administration (SSA) about his or her eligibility for the benefits. In general, sections 202(j)(5) and 1631(e)(5) provide that, in such a case, an individual will be "deemed" to have applied for monthly Social Security or SSI benefits, as appropriate, on the later of: The date the misinformation was provided to such individual; or the date such individual met all requirements for entitlement to or eligibility for such benefits, other than the requirement of filing an application.

EFFECTIVE DATE: These rules are effective August 31, 1994.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (410) 965–1762.

SUPPLEMENTARY INFORMATION:

Background

These regulations implement the provisions of section 10302 of OBRA 1989, Pub. L. 101–239, which added sections 202(j)(5) and 1631(e)(5) of the Act. Sections 202(j)(5) and 1631(e)(5) of the Act provide that in any case in which it is determined to the satisfaction of the Secretary that an individual failed to apply for monthly Social Security or SSI benefits because of misinformation provided to such individual by an officer or employee of SSA relating to the individual's eligibility for the respective benefits, such individual will be "deemed" to have applied for monthly Social Security or SSI benefits, as the case may be, on the later of: (1) The date the misinformation was provided to such individual; or (2) the date on which such individual met all requirements for entitlement to Social Security benefits, or all requirements of eligibility for SSI benefits, as appropriate, other than the requirement of filing an application. The amendment relating to applications for monthly Social Security benefits, under section 202(j)(5) of the Act, applies to misinformation provided after December 31, 1982, and is effective for benefits payable for months beginning after that date. The amendment relating to applications for SSI benefits, under section 1631(e)(5) of the Act, applies to misinformation provided on or after December 19, 1989, the date of the

enactment of OBRA 1989, and is effective for benefits payable for months after December 1989.

We are amending our regulations on filing an application for Social Security or SSI benefits to include rules to implement section 10302 of OBRA 1989. These final regulations describe the rules for establishing a "deemed" filing date of an application for benefits under section 202(j)(5) or 1631(e)(5) of the Act in a case in which an individual failed to apply for benefits because of certain misinformation provided to the individual by an officer or employee of SSA. Among other things, the regulations explain what is meant by "misinformation" for purposes of these rules, describe the kinds of evidence we will consider in determining whether misinformation was provided, and explain that a determination on a claim for benefits under these sections of the Act, i.e., a determination as to whether or not to establish a "deemed" filing date of an application on the basis that misinformation was provided which caused an individual not to apply for benefits, is an initial determination for purposes of administrative and judicial review.

In general, our current regulations at §§ 404.603 and 416.305(a) provide that to become entitled to Social Security benefits or become eligible to receive SSI benefits, an individual, in addition to meeting all other requirements, must file an application for Social Security benefits or for SSI benefits, as appropriate. An application must be on a prescribed application form and meet certain other requirements specified in § 404.610 or § 416.310.

Current § 404.614 provides, with certain exceptions, that an application for Social Security benefits is filed on the day it is received by an SSA employee at one of our offices or by an SSA employee who is authorized to receive it at another place. If a written statement indicating intent to claim Social Security benefits is filed, we will use the filing date of the written statement as the filing date of the application under the conditions described in § 404.630. Also, if an individual telephones us and advises us that he or she intends to file a claim for Social Security benefits but cannot file an application before the end of the month, § 404.630(b) provides that we will prepare and sign a written statement if it is necessary to prevent the loss of benefits.

In the SSI program, current § 416.325 provides, with certain exceptions, that an application for SSI benefits is considered to be filed on the day it is received by an SSA employee at any Social Security office, by someone at another Federal or State office designated to receive applications for us, or by a person whom we have authorized to receive applications for us. Also, under the conditions described in §§ 416.340, 416.345 and 416.350, if we receive a written statement indicating an intent to claim SSI benefits or an oral inquiry about SSI benefits, we will use the filing date of the written statement or the date of the oral inquiry as the filing date of the application, if the use of that date will result in eligibility for additional benefits.

Under these final rules, we continue to require the filing of a formal written application before we will make a determination on a claim for benefits under section 202(j)(5) or 1631(e)(5) of the Act based on an allegation that misinformation was provided which caused an individual not to apply for benefits. If we determine that such misinformation was provided, however, we will deem the filing date of the application to be the date the misinformation was provided or, if later, the date the claimant, i.e., the individual who is claiming benefits for himself or herself or the person on whose behalf benefits are being claimed, met all the requirements for entitlement to Social Security benefits or eligibility for SSI benefits, as appropriate, other than the requirement of filing an application.

Under our current regulations, an application for SSI benefits is also an application for any applicable federally administered State supplementary payments under section 1616 of the Act. The current regulations which govern the filing of applications for SSI benefits, therefore, also apply to applications for these State supplementary payments. This is reflected in current § 416.302 which provides that for purposes of the regulations on filing applications for SSI benefits, § 416.301 *et seq.*, "*[b]enefits* means any payments made under the SSI program," and "SSI benefits also include any federally administered State supplementary payments." As explained below, these definitions would continue to apply under the regulations which implement section 1631(e)(5) of the Act.

Section 1631(e)(5) of the Act applies specifically to cases in which an individual failed to apply for SSI benefits because of the receipt of misinformation relating to eligibility for SSI benefits. However, because the application form and our current rules on filing applications are the same for both SSI claims and claims for federally administered State supplementary payments, we also will apply the provisions under section 1631(e)(5) to cases involving misinformation about eligibility for federally administered State supplementary payments. This rule is based on the authority under section 1631(e)(1)(A) of the Act which directs the Secretary to "prescribe such requirements with respect to the filing of applications * * * as may be necessary for the effective and efficient administration of this title." Therefore, while not required under section 1631(e)(5) of the Act, the final regulations will permit the establishment of a "deemed" filing date of an application in situations in which an individual failed to file an application because we provided the individual misinformation about his or her eligibility for these State supplementary payments.

Deemed Filing Date of an Application in a Case of Misinformation

We are adding new §§ 404.633 and 416.351 to our regulations to explain the rules we will follow in implementing sections 202(j)(5) and 1631(e)(5) of the Act, respectively. Sections 404.633(b) and 416.351(b) of the final regulations explain that we may establish a "deemed" filing date of an application for benefits under these sections of the Act if we determine to our satisfaction that—

(1) An individual failed to apply for monthly Social Security or SSI benefits for himself or herself because we provided such individual misinformation about his or her eligibility for the respective benefits, including misinformation about the amount or payment of such benefits; or

(2) An individual who had authority to sign an application for another person under § 404.612 or § 416.315, as appropriate, failed to apply for monthly Social Security or SSI benefits for that person because we provided the individual misinformation about such person's eligibility for the respective benefits, including misinformation about the amount or payment of such benefits.

In the first situation, we would deem an application to have been filed on the date the misinformation was provided to the individual or, if later, the date on which such individual met all of the requirements for entitlement to monthly Social Security benefits or eligibility for SSI benefits, as the case may be, other than the requirement of filing an application. In the second situation, we would deem an application to have been filed on the date the misinformation was provided to the individual or, if later, the date on which the person referred to in item (2) above, i.e., the person on whose behalf the individual was inquiring about getting benefits, met all

the requirements for entitlement to monthly Social Security benefits or eligibility for SSI benefits, as the case may be, other than the requirement of filing an application.

The regulations explain that we will apply certain requirements and conditions which are specified in the regulations in making the determination described above, i.e., a determination as to whether misinformation was provided. The regulations explain that before we may make such a determination and establish a "deemed" filing date of an application for benefits, an application for such benefits must be filed with us either by the claimant, i.e., the individual in item (1) above or the person referred to in item (2) above, or by someone who is authorized to sign an application on behalf of the claimant under § 404.612 or § 416.315. The regulations also provide that if the claimant dies after the alleged misinformation was provided but before an application is filed, an application for monthly Social Security benefits must be filed by a person who would be qualified to receive any benefits due the deceased. With respect to SSI benefits, if the claimant dies after the alleged misinformation was provided but before an application is filed, a person who would be qualified under § 416.542(b) to receive any benefits due the deceased, or someone on behalf of such a person, must file an application for the benefits. This latter provision is consistent with the provisions of our final regulations on "Payment of Benefits Due Deceased Recipients," which were published in the **Federal Register** on October 13, 1993, at 58 FR 52909.

Our regulations on "Payment of Benefits Due Deceased Recipients" amended certain sections of the SSI regulations, including, as pertinent here, §§ 416.340(d)(2), 416.345(e)(2), and 416.542(b), to implement section 8 of Pub. L. 99–643. Section 8 of Pub. L. 99–643 amended section 1631(b)(1) of the Act to expand the circumstances under which SSI benefits due a deceased individual may be paid to survivors. Among other things, those regulations amended §§ 416.340(d)(2) and 416.345(e)(2) to permit, in general, a deceased claimant's surviving spouse or parent(s) who could receive the claimant's benefits under § 416.542(b), or someone on behalf of such surviving spouse or parent(s), to file an application for SSI benefits for the claimant where the claimant dies after we receive a written statement indicating an intent to claim SSI benefits or an oral inquiry about SSI eligibility. The rule which we now are adding regarding who may file an application for SSI benefits on behalf of a claimant where the claimant dies after the alleged misinformation was provided, discussed above, is consistent with these earlier changes to the SSI regulations.

We are amending §§ 404.612, 404.615 and 416.310 to reflect the provisions of §§ 404.633(b) and 416.351(b) concerning who may file an application if a claimant dies after the alleged misinformation was provided.

Sections 404.633(c) and 416.351(c) explain that the provisions for establishing a "deemed" filing date of an application apply only to cases in which the misinformation was provided to the individual by an employee of SSA, including an officer of the Agency, while such person was acting in his or her official capacity as an employee or officer of the Agency. The regulations also explain that "misinformation" is information which we would consider incorrect, misleading, or incomplete in view of the facts which the individual gave to the employee, or of which the employee otherwise was aware or should have been aware, regarding the claimant's particular circumstances. Under these regulations, we will consider the information provided to be incomplete if the employee failed to provide the individual with appropriate, additional information which he or she is required to provide in carrying out his or her official duties. The misinformation may have been provided orally or in writing. However, the misinformation must have been provided to the individual in response to his or her request to us for information about applying for benefits, either for himself or herself or for another person for whom he or she could sign an application.

We also are amending §§ 404.614 and 416.325, which explain when an application for benefits is considered filed, to reflect the provisions of §§ 404.633 and 416.351.

Evidence That Misinformation Was Provided

In §§ 404.633(d) and 416.351(d), we describe the kinds of evidence we will consider in determining whether misinformation was provided. We explain that preferred evidence is written evidence that relates directly to an individual's inquiry about his or her eligibility for benefits, or about the eligibility of another person on whose behalf the individual was considering applying for benefits, and which shows that we gave the individual misinformation which caused him or her not to file an application for such benefits. Preferred evidence includes, but is not limited to, the following—

- A notice, letter, or other document which was issued by SSA and addressed to the individual; and
- An SSA record of a telephone call, letter or in-person contact.

In the absence of preferred evidence, we will consider other evidence which includes, but is not limited to, the following—

- The individual's statements about the alleged misinformation, including statements about the date and time of the alleged contact(s); how the contact was made, e.g., by telephone or in person; the reason(s) the contact was made; who gave the misinformation; and the questions asked by the individual and the facts the individual gave us, and the questions asked by the SSA employee and the information the employee gave the individual at the time of the contact;
- Statements from others who were present when the alleged misinformation was given, e.g., a neighbor who accompanied the individual to the SSA office;
- If the individual can identify the employee or the employee can recall the individual's inquiry about benefits—

(1) Statements from the employee concerning the alleged contact, including statements about the questions the individual asked, the facts the individual gave, the questions the employee asked, and the information provided to the individual at the time of the alleged contact; and

(2) An assessment of the likelihood that the SSA employee gave the alleged misinformation;

- An evaluation of the credibility and the validity of the individual's allegations in conjunction with other relevant information; and
- Any other information regarding the individual's alleged contact.

We will evaluate the individual's allegations and seek corroboration; we will resolve reasonable doubt in the individual's favor if the allegation of misinformation seems credible, is supported by other evidence, and there is no contradictory evidence.

Information Which Does Not Constitute Satisfactory Proof That Misinformation Was Given

Sections 404.633(e) and 416.351(e) explain that certain kinds of information will not constitute satisfactory proof that we gave the individual misinformation which caused him or her not to file an application. Examples of such information include—

- General informational pamphlets that we issue to provide basic program information;
- The Personal Earnings and Benefit Estimate Statement that is based on an individual's reported and projected earnings and is an estimate of Social Security benefits which can be requested at any time; the estimate is only a projection based on our

records and the individual's estimated future earnings and is not necessarily associated with an intent to file or an inquiry about eligibility;

- The SSI Benefit Estimate Letter that is based on an individual's reported and projected income and is an estimate which can be requested at any time; the estimate is only a projection based on our records and the individual's estimated income and is not necessarily associated with an intent to file or an inquiry about eligibility;
- General information we review or prepare but which is disseminated by the media, e.g., radio, television, magazines, and newspapers; and
- Information concerning Social Security and SSI benefits provided by other governmental agencies, e.g., the Department of Veterans Affairs, the Department of Defense, State unemployment agencies, and State and local governments.

Claim for Benefits Based on Alleged Misinformation

Under §§ 404.633(f) and 416.351(f), an individual at any time may ask us to consider establishing a deemed filing date on the basis that misinformation was provided. However, the regulations explain that we will not make a determination on such a claim for benefits unless the following conditions are met.

First, a claim for benefits based on an allegation that we provided misinformation must be made in writing. The written statement must explain what information was provided; how, when and where it was provided and by whom; and why the information caused the individual not to file an application for benefits.

Second, an application for the benefits must be filed by the claimant or by someone who could file on behalf of the claimant. The application must be filed after the occurrence of the alleged misinformation. This application may be—

- An application on which we have made a previous final determination or decision awarding such benefits to the claimant, provided that the claimant continues to be entitled to Social Security benefits, or continues to be eligible for SSI benefits (or again could be eligible for SSI benefits), based on that application;
- An application on which we have made a previous final determination or decision denying the benefits to the claimant, but only if such determination or decision is reopened under § 404.988 or § 416.1488; or
- A new application on which we have not made a final determination or decision.

Third, if the only issue in dispute is whether or not the alleged misinformation occurred, we will not make an initial determination on a claim for benefits under § 404.633 or § 416.351 unless the establishment of a deemed filing date of an application based on the alleged misinformation would result in the claimant becoming entitled to, or eligible for, benefits or additional benefits.

Fourth, we will not make an initial determination on a claim for benefits under § 404.633 or § 416.351 if we have made a previous determination or decision on a claim for benefits based on the alleged misinformation which involved the same party(ies), the same facts and the same issues, and this previous determination or decision has become final. This rule does not apply, however, if the previous final determination or decision may be reopened under § 404.988 or § 416.1488.

We are amending §§ 404.903 and 416.1403 to explain that if we decline to make an initial determination on a claim for benefits based on an allegation of misinformation because one or more of the conditions specified above are not met, our action is not an initial determination for purposes of our administrative review process or judicial review. We also are amending §§ 404.902 and 416.1402 to make it clear that if we make a determination on a claim for benefits based on an allegation of misinformation, the determination is an initial determination subject to administrative and judicial review under § 404.900 *et seq.* or § 416.1400 *et seq.*

Public Comments

We published proposed rules in the **Federal Register** on October 16, 1992, 57 FR 47415. We gave interested parties 60 days to submit comments. We also published an amendment to the proposed rules on January 22, 1993, 58 FR 5687, and we gave interested parties another 60 days to submit comments on the proposed rules, as amended. We received comments from four commenters: a public policy research center concerned with child health care, a State public health agency employee, and two attorneys who represent claimants and beneficiaries.

One commenter supported the proposed rules without modification. Another commenter supported the proposed rules but recommended that another example of a situation involving misinformation be included in the rules. The other commenters believed that the proposed rules should be expanded to cover certain other situations in which an individual failed to file an application for benefits. In addition, while commending the proposed rules, two of the commenters recommended that SSA also take steps to ensure that Agency employees provide correct information to potential applicants when they inquire about eligibility for benefits. A summary of the comments and our responses to the comments are provided below.

We considered carefully all of the substantive comments which we received on the proposed rules. However, for the reasons explained below, we did not make any changes to the proposed rules other than certain editorial changes discussed below. Therefore, except for some editorial changes, these final rules are the same as the proposed rules.

Comment: One commenter recommended that the proposed rules be expanded to include an example of a situation in which an individual, such as a parent, inquires about filing an application on behalf of a child for SSI benefits based on disability or blindness and is provided misinformation by SSA about the child's eligibility for benefits which causes the individual not to file an application for the benefits. This commenter also stated that often a parent of a child who may be disabled or blind contacts SSA to inquire about SSI benefits for the child at the suggestion of a child advocate, case manager or hospital social worker. The commenter believed that these case workers can serve as sources to corroborate dates and facts of the contact in cases of alleged misinformation since parents in these situations usually recontact the case worker to advise the worker that they were dissuaded from applying for benefits because of the information which SSA provided to them about the child's eligibility.

Response: The examples in § 416.351(a) are intended simply to illustrate situations in which misinformation provided by an SSA employee concerning a potential claimant's eligibility for SSI benefits causes an individual not to file an application for the benefits. The examples are not intended to cover all situations involving alleged misinformation or all categories of SSI benefits. Existing § 416.315(b) provides that an application for SSI benefits for a claimant who is under age 18 may be signed by an individual who is responsible for the care of the claimant, including a relative, or by certain other individuals described in that section. In § 416.351(b)(2)(i) of the final regulations, we explain that if an individual had authority under § 416.315 to sign an application for benefits for another person, and we determined that the individual failed to apply for SSI benefits for that person because we gave the individual misinformation about that person's eligibility for such benefits, we will

deem an application for the benefits to have been filed on the date specified in § 416.351(b)(2)(i) (A) or (B), as appropriate. Section 416.351(b)(2)(i) makes it clear that the rules for establishing a deemed filing date of an application for benefits based on misinformation apply to cases in which a parent, or other individual authorized to sign an application for a child, failed to apply for SSI benefits for a child because we gave the parent, or such other individual, misinformation about the child's eligibility for SSI benefits. Section 404.633(b)(2)(i) of the final regulations provides similar rules with respect to claims for Social Security benefits. We do not believe that it is necessary, therefore, to add an example to the regulations to cover the specific situation in which an individual failed to apply for benefits on behalf of a child because we gave the individual misinformation about the child's eligibility for the benefits.

We agree with the commenter that in some circumstances a child advocate, case manager or hospital social worker may be able to provide information regarding an individual's alleged contact with SSA. Under §§ 404.633(f) and 416.351(f), an individual who makes a claim for benefits based on alleged misinformation must furnish information that will enable us to determine if we did provide misinformation to the individual about his or her eligibility for benefits, or the eligibility of a person on whose behalf the individual was considering applying for benefits, which caused the individual not to file an application for the benefits. Preferred evidence of such misinformation is written evidence, such as a letter, which shows that we gave the individual misinformation which caused the individual not to file an application. In the absence of preferred evidence, we will consider other evidence, including the individual's statements about the alleged misinformation as well as "[a]ny other information regarding [the individual's] * * * alleged contact," as explained in §§ 404.633(d)(2) and 416.351(d)(2). This would include statements provided by a case worker concerning the individual's alleged contact.

Comment: A commenter expressed the view that the proposed regulations do not address the situation in which an individual who might be eligible for Social Security and SSI benefits files an application for Social Security benefits but does not ask about or express interest in SSI benefits and does not file an application for those benefits at that time. The commenter suggested that the proposed rules be amended to provide for the use of the filing date of the application for Social Security benefits in such a case to establish the filing date of an application for SSI benefits.

Response: Existing §§ 416.345 and 416.350, which are not affected by these final rules, already address the situation discussed by the commenter. Section 416.350 provides that when an individual applies for Social Security benefits, we will explain the requirements for eligibility for SSI benefits to the individual and give the individual a chance to file an SSI application if it appears that he or she might be eligible for SSI benefits as explained in that section. If the individual does not apply for SSI benefits at that time, § 416.350 provides that we will treat his or her filing of an application for Social Security benefits as an oral inquiry about SSI benefits for purposes of § 416.345. The filing date of the individual's Social Security application, therefore, may be used to establish the filing date of an SSI application in accordance with § 416.345. For these reasons, we did not adopt the change suggested by the commenter.

Comment: One commenter questioned the requirement of proposed §§ 404.633(c)(4) and 416.351(c)(4) that "[t]he misinformation must have been provided to you in response to a specific request by you to us for information about your eligibility for benefits or the eligibility for benefits of [another] * * * person * * * for which you were considering filing an application." The commenter believed that this provision, as well as proposed §§ 404.633(a) and 416.351(a), would require an individual who requests a deemed filing date of an application based on misinformation to show that he or she had a specific intent to claim benefits at the time the alleged misinformation was provided. The commenter believed that such a requirement would be inconsistent with section 10302 of OBRA 1989.

It was the commenter's opinion that in enacting this statute, Congress intended to place an affirmative duty on SSA to develop or encourage claims that could be filed, at least where a potential applicant presents material facts to the Agency and an employee makes an incorrect or incomplete response. Therefore, the commenter believed that the proposed rules should be revised to permit the establishment of a deemed filing date of an application where an individual does not inquire about possible eligibility for benefits but simply presents information to the Agency that might have alerted an SSA employee to a potential claim, and, because the employee does not consider and does not advise the individual of the potential claim, the individual does not file an application for benefits. As an illustration, the commenter described a situation in which information showing that a disability insurance beneficiary had children who were born after the beneficiary began receiving disability benefits and who, upon the filing of the required applications, could become entitled to child's insurance benefits based on the beneficiary's earnings record, was overlooked during a continuing disability review interview with the beneficiary.

Response: Sections 404.633(c)(4) and 416.351(c)(4) prescribe the circumstances in which the misinformation must have been provided in order to have caused the individual not to file an application for benefits. These sections do not require an individual to show that he or she had the express intention of filing an application for benefits at the time he or she was provided the alleged misinformation. Rather, these sections provide only that the alleged misinformation must have been provided in a situation in which the individual was considering applying for benefits and contacted SSA to inquire about his or her eligibility for benefits or the eligibility of another person for whom the individual had authority to sign an application. We believe this requirement, which is also reflected in §§ 404.633(a) and 416.351(a), is consistent with sections 202(j)(5) and 1631(e)(5) of the Act, which were added by section 10302 of OBRA 1989.

Sections 202(j)(5) and 1631(e)(5) of the Act do not provide for a deemed filing date of an application for benefits in the situation described by the commenter. These sections provide for a deemed filing date when:

> * * * it is determined to the satisfaction of the Secretary that an individual failed as of any date to apply for [Social Security or SSI] benefits * * * by reason of misinformation provided to such individual by any officer or employee of the Social Security Administration relating to such individual's eligibility for [the respective] benefits * * *.

To be accorded a deemed filing date under these sections of the Act, an individual must demonstrate to our satisfaction that his or her failure to apply for benefits was due to misinformation which was communicated to that individual by an officer or employee of SSA and which concerned that individual's eligibility for the benefits. There must be a satisfactory showing that the failure to apply for benefits was the direct result

of such misinformation. For this purpose, we require in §§ 404.633(c)(4) and 416.351(c)(4) that the misinformation must have been provided to an individual in response to his or her request to us for information about his or her eligibility for benefits, or the eligibility for benefits of another person, for which he or she was considering filing an application.

Comment: While expressing strong support for the proposed rules, one commenter urged that efforts be made by SSA to ensure that misinformation is not disseminated from SSA field offices or teleservice centers. Another commenter who supported the proposed rules recommended that SSA establish a monitoring process to identify sources of misinformation and implement strategies to correct any problems that are found.

Response: We are committed to ensuring that we provide the highest quality service possible to the public in a courteous, timely and accurate manner. We already have put into place procedures for monitoring the service provided to the public and for addressing problems discovered in the delivery of service by our employees. As part of this effort, employees are instructed to answer all calls by identifying their Agency, followed by their full name or a title and last name for identification purposes. In addition, ongoing training is conducted, incoming telephone calls are randomly monitored, in-office interviews are monitored, and quality reviews are conducted. We believe that these measures to protect the public from being given misinformation will help to ensure that potential applicants are provided timely and accurate information.

Changes to the Proposed Rules

In §§ 404.633(b)(2)(ii) and 416.351(b)(2)(ii) of the final rules, we are revising the phrase "Before we may consider establishing" which was used in the corresponding sections of the proposed rules. We are changing the phrase to "Before we may establish" to conform to the wording of §§ 404.633(b)(1)(ii) and 416.351(b)(1)(ii). This is simply an editorial change to make the provisions of the final rules consistent. The final rules also reflect a few other nonsubstantive changes to the proposed rules.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these rules do not meet the criteria for a significant regulatory action under E.O. 12866. Thus, they were not subject to OMB review.

Paperwork Reduction Act

These regulations contain information collection requirements in §§ 404.633(f) and 416.351(f). We ordinarily would seek approval of these requirements from OMB under the Paperwork Reduction Act. We are not doing so in this situation because we already have clearance from OMB to collect this information using form SSA–795 (OMB No. 0960–0045).

Public reporting burden for this collection of information is estimated to average 15 minutes per response. This includes the time it will take to read the instructions, gather the necessary facts, and provide the information. We expect approximately 1,000 claimants or applicants to complete form SSA–795 annually, and estimate the total burden to be 250 hours. If you have any comments or suggestions on this estimate, write to the Social Security Administration, Attn: Reports Clearance Officer, 1–A–21 Operations Building, Baltimore, MD 21235, and to the Office of Management and Budget, Paperwork Reduction Project (0960–0045), Washington, DC 20503.

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.

(Catalog of Federal Domestic Assistance Program Nos. 93.802, Social Security-Disability Insurance; 93.803, Social Security-Retirement Insurance; 93.805, Social Security-Survivors Insurance; 93.807, Supplemental Security Income).

List of Subjects

20 CFR Part 404

Administrative Practice and Procedure, Death benefits, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements.

20 CFR Part 416

Administrative Practice and Procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated: June 28, 1994.

Shirley S. Chater,

Commissioner of Social Security.

Approved: August 11, 1994.

Donna E. Shalala,

Secretary of Health and Human Services.

For the reasons set out in the preamble, Parts 404 and 416 of Chapter III of Title 20 of the Code of Federal Regulations are amended as set forth below.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

20 CFR Part 404, Subparts G and J are amended as follows:

1. The authority citation for Subpart G continues to read as follows:

Authority: Secs. 202(i), (j), (o), (p), and (r), 205(a), 216(i)(2), 223(b), 228(a), and 1102 of the Social Security Act; 42 U.S.C. 402(i), (j), (o), (p), and (r), 405(a), 416(i)(2), 423(b), 428(a), and 1302.

2. Section 404.612 is amended by redesignating paragraph (g) as paragraph (h) and by adding a new paragraph (g) to read as follows:

§ 404.612 Who may sign an application.

* * * * *

(g) If a person who could receive benefits on the basis of a "deemed" filing date of an application under § 404.633(b)(1)(i) or (b)(2)(i) dies before an application for the benefits is filed, the application may be signed by a person who would be qualified to receive any benefits due the deceased person as explained in § 404.633(b)(1)(ii) and (b)(2)(ii).

* * * * *

3. Section 404.614 is amended by revising paragraph (a) to read as follows:

§ 404.614 When an application or other form is considered filed.

(a) *General rule.* Except as otherwise provided in paragraph (b) of this section and in §§ 404.630 through 404.633 which relate to the filing date of an application, an application for benefits, or a written statement, request, or notice is filed on the day it is received by an SSA employee at one of our offices or by an SSA employee who is authorized to receive it at a place other than one of our offices.

* * * * *

4. Section 404.615 is amended by adding paragraph (d) to read as follows:

§ 404.615 Claimant must be alive when an application is filed.

* * * * *

(d) If a person who could receive benefits on the basis of a "deemed" filing date of an application under

§ 404.633(b)(1)(i) or (b)(2)(i) dies before an application for the benefits is filed, the application may be signed by a person who would be qualified to receive any benefits due the deceased person as explained in § 404.633(b)(1)(ii) and (b)(2)(ii).

5. A new undesignated heading and a new § 404.633 are added to read as follows:

Deemed Filing Date Based on Misinformation

§ 404.633 Deemed filing date in a case of misinformation.

(a) *General.* You may have considered applying for monthly benefits for yourself or for another person, and you may have contacted us in writing, by telephone or in person to inquire about filing an application for these benefits. It is possible that in responding to your inquiry, we may have given you misinformation about your eligibility for such benefits, or the eligibility of the person on whose behalf you were considering applying for benefits, which caused you not to file an application at that time. If this happened, and later an application for such benefits is filed with us, we may establish an earlier filing date under this section.

Example 1: Mrs. Smith, a widow of an insured individual, contacts a Social Security office when she reaches age 60 to inquire about applying for widow's insurance benefits. She is told by an SSA employee that she must be age 62 to be eligible for these benefits. This information, which was incorrect, causes Mrs. Smith not to file an application for benefits. When Mrs. Smith reaches age 62, she again contacts a Social Security office to ask about filing for widow's insurance benefits and learns that she could have received the benefits at age 60. She files an application for these benefits, provides the information required under paragraph (f) of this section to show that an SSA employee provided misinformation, and requests a deemed filing date based on the misinformation which she received from an SSA employee when she was age 60.

Example 2: Ms. Hill, a 22-year-old, is forced to stop work because of illness. When she contacts a Social Security office to inquire about applying for disability insurance benefits, she is told by an SSA employee that she must have 20 quarters of coverage out of the last 40 calendar quarters to be insured for disability insurance benefits. The employee fails to consider the special rules for insured status for persons who become disabled before age 31 and, consequently, tells Ms. Hill that she is not insured because she only has 16 quarters of coverage. The misinformation causes Ms. Hill not to file an application for disability insurance benefits. Because of her illness, she is unable to return to work. A year later, Ms. Hill reads an article that indicates that there are special rules for insured status for young workers who become disabled. She again contacts a Social Security office to inquire about benefits based on disability and learns that she was misinformed earlier about her insured status. She files an application for disability insurance benefits, provides the information required under paragraph (f) of this section to show that an SSA employee provided misinformation, and requests a deemed filing date based on the misinformation provided to her earlier.

(b) *Deemed filing date of an application based on misinformation.* Subject to the requirements and conditions in paragraphs (c) through (g) of this section, we may establish a deemed filing date of an application for monthly benefits under the following provisions.

(1)(i) If we determine that you failed to apply for monthly benefits for yourself because we gave you misinformation about your eligibility for such benefits, we will deem an application for such benefits to have been filed with us on the later of—

(A) The date on which the misinformation was provided to you; or

(B) The date on which you met all of the requirements for entitlement to such benefits, other than the requirement of filing an application.

(ii) Before we may establish a deemed filing date of an application for benefits for you under paragraph (b)(1)(i) of this section, you or a person described in § 404.612 must file an application for such benefits. If you die before an application for the benefits is filed with us, we will consider establishing a deemed filing date of an application for such benefits only if an application for the benefits is filed with us by a person who would be qualified to receive any benefits due you.

(2)(i) If you had authority under § 404.612 to sign an application for benefits for another person, and we determine that you failed to apply for monthly benefits for that person because we gave you misinformation about that person's eligibility for such benefits, we will deem an application for such benefits to have been filed with us on the later of—

(A) The date on which the misinformation was provided to you; or

(B) The date on which the person met all of the requirements for entitlement to such benefits, other than the requirement of filing an application.

(ii) Before we may establish a deemed filing date of an application for benefits for the person under paragraph (b)(2)(i) of this section, you, such person, or another person described in § 404.612 must file an application for such benefits. If the person referred to in paragraph (b)(2)(i) of this section dies before an application for the benefits is filed with us, we will consider establishing a deemed filing date of an application for such benefits only if an application for the benefits is filed with us by a person who would be qualified to receive any benefits due the deceased person.

(c) *Requirements concerning the misinformation.* We apply the following requirements for purposes of paragraph (b) of this section.

(1) The misinformation must have been provided to you by one of our employees while he or she was acting in his or her official capacity as our employee. For purposes of this section, an employee includes an officer of SSA.

(2) Misinformation is information which we consider to be incorrect, misleading, or incomplete in view of the facts which you gave to the employee, or of which the employee was aware or should have been aware, regarding your particular circumstances, or the particular circumstances of the person referred to in paragraph (b)(2)(i) of this section. In addition, for us to find that the information you received was incomplete, the employee must have failed to provide you with the appropriate, additional information which he or she would be required to provide in carrying out his or her official duties.

(3) The misinformation may have been provided to you orally or in writing.

(4) The misinformation must have been provided to you in response to a specific request by you to us for information about your eligibility for benefits or the eligibility for benefits of the person referred to in paragraph (b)(2)(i) of this section for which you were considering filing an application.

(d) *Evidence that misinformation was provided.* We will consider the following evidence in making a determination under paragraph (b) of this section.

(1) *Preferred evidence.* Preferred evidence is written evidence which relates directly to your inquiry about your eligibility for benefits or the eligibility of another person and which shows that we gave you misinformation

which caused you not to file an application. Preferred evidence includes, but is not limited to, the following—

(i) A notice, letter or other document which was issued by us and addressed to you; or

(ii) Our record of your telephone call, letter or in-person contact.

(2) *Other evidence.* In the absence of preferred evidence, we will consider other evidence, including your statements about the alleged misinformation, to determine whether we gave you misinformation which caused you not to file an application. We will not find that we gave you misinformation, however, based solely on your statements. Other evidence which you provide or which we obtain must support your statements. Evidence which we will consider includes, but is not limited to, the following—

(i) Your statements about the alleged misinformation, including statements about—

(A) The date and time of the alleged contact(s);

(B) How the contact was made, e.g., by telephone or in person;

(C) The reason(s) the contact was made;

(D) Who gave the misinformation; and

(E) The questions you asked and the facts you gave us, and the questions we asked and the information we gave you, at the time of the contact;

(ii) Statements from others who were present when you were given the alleged misinformation, e.g., a neighbor who accompanied you to our office;

(iii) If you can identify the employee or the employee can recall your inquiry about benefits—

(A) Statements from the employee concerning the alleged contact, including statements about the questions you asked, the facts you gave, the questions the employee asked, and the information provided to you at the time of the alleged contact; and

(B) Our assessment of the likelihood that the employee provided the alleged misinformation;

(iv) An evaluation of the credibility and the validity of your allegations in conjunction with other relevant information; and

(v) Any other information regarding your alleged contact.

(e) *Information which does not constitute satisfactory proof that misinformation was given.* Certain kinds of information will not be considered satisfactory proof that we gave you misinformation which caused you not to file an application. Examples of such information include—

(1) General informational pamphlets that we issue to provide basic program information;

(2) The Personal Earnings and Benefit Estimate Statement that is based on an individual's reported and projected earnings and is an estimate which can be requested at any time;

(3) General information which we review or prepare but which is disseminated by the media, e.g., radio, television, magazines, and newspapers; and

(4) Information provided by other governmental agencies, e.g., the Department of Veterans Affairs, the Department of Defense, State unemployment agencies, and State and local governments.

(f) *Claim for benefits based on misinformation.* You may make a claim for benefits based on misinformation at any time. Your claim must contain information that will enable us to determine if we did provide misinformation to you about your eligibility for benefits, or the eligibility of a person on whose behalf you were considering applying for benefits, which caused you not to file an application for the benefits. Specifically, your claim must be in writing and it must explain what information was provided; how, when and where it was provided and by whom; and why the information caused you not to file an application. If you give us this information, we will make a determination on such a claim for benefits if all of the following conditions are also met.

(1) An application for the benefits described in paragraph (b)(1)(i) or (b)(2)(i) of this section is filed with us by someone described in paragraph (b)(1)(ii) or (b)(2)(ii) of this section, as appropriate. The application must be filed after the alleged misinformation was provided. This application may be—

(i) An application on which we have made a previous final determination or decision awarding the benefits, but only if the claimant continues to be entitled to benefits based on that application;

(ii) An application on which we have made a previous final determination or decision denying the benefits, but only if such determination or decision is reopened under § 404.988; or

(iii) A new application on which we have not made a final determination or decision.

(2) The establishment of a deemed filing date of an application for benefits based on misinformation could result in the claimant becoming entitled to benefits or to additional benefits.

(3) We have not made a previous final determination or decision to which you were a party on a claim for benefits based on alleged misinformation involving the same facts and issues. This provision does not apply, however, if the final determination or decision may be reopened under § 404.988.

(g) *Effective date.* This section applies only to misinformation which we provided after December 1982. In addition, this section is effective only for benefits payable for months after December 1982.

6. The authority citation for Subpart J is revised to read as follows:

Authority: Secs. 201(j), 205 (a), (b), (d)–(h), and (j), 221(d), and 1102 of the Social Security Act; 31 U.S.C. 3720A; 42 U.S.C. 401(j), 405 (a), (b), (d)–(h), and (j), 421(d), and 1302.

7. Section 404.902 is amended by removing "and" following the semicolon at the end of paragraph (t), by inserting a semicolon in place of the period at the end of paragraph (u) and adding "and" following such semicolon, and by adding a new paragraph (v) to read as follows:

§ 404.902 Administrative actions that are initial determinations.

* * * * *

(v) A claim for benefits under § 404.633 based on alleged misinformation.

8. Section 404.903 is amended by removing "and" following the semicolon at the end of paragraph (l), by inserting semicolons in place of the periods at the end of paragraphs (m), (n), (o), (p) and (q), by adding "and" following such semicolon at the end of paragraph (q), by inserting "procedure (see" in place of "procedure. (See" in paragraph (p), by inserting "payee (see" in place of "payee. (See" in paragraph (q), and by adding a new paragraph (r) to read as follows:

§ 404.903 Administrative actions that are not initial determinations.

* * * * *

(r) Declining under § 404.633(f) to make a determination on a claim for benefits based on alleged misinformation because one or more of the conditions specified in § 404.633(f) are not met.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

20 CFR Part 416, Subparts C and N are amended as follows:

1. The authority citation for Subpart C of Part 416 continues to read as follows:

Authority: Secs. 1102, 1611, and 1631 (a), (d), and (e) of the Social Security Act; 42 U.S.C. 1302, 1382, and 1383 (a), (d), and (e).

2. Section 416.310 is amended by revising paragraph (d) to read as follows:

§ 416.310 What makes an application a claim for benefits.

* * * * *

(d) The claimant must be alive at the time the application is filed. See §§ 416.340, 416.345, and 416.351 for exceptions.

3. Section 416.325 is amended by adding a new paragraph (b)(3) to read as follows:

§ 416.325 When an application is considered filed.

* * * * *

(b) * * *

(3) We will establish a "deemed" filing date of an application in a case of misinformation under the conditions described in § 416.351. The filing date of the application will be a date determined under § 416.351(b).

4. A new undesignated heading and a new § 416.351 are added to read as follows:

Deemed Filing Date Based on Misinformation

§ 416.351 Deemed filing date in a case of misinformation.

(a) *General.* You may have considered applying for SSI benefits for yourself or for another person, and you may have contacted us in writing, by telephone or in person to inquire about filing an application for these benefits. It is possible that in responding to your inquiry, we may have given you misinformation about your eligibility for such benefits, or the eligibility of the person on whose behalf you were considering applying for benefits, which caused you not to file an application at that time. If this happened, and later an application for such benefits is filed with us, we may establish an earlier filing date under this section.

Example 1: Ms. Jones calls a Social Security office to inquire about filing an application for SSI benefits. During her conversation with an SSA employee, she tells the employee about her resources. The SSA employee tells Ms. Jones that because her countable resources are above the allowable limit, she would be ineligible for SSI benefits. The employee fails to consider certain resource exclusions under the SSI program which would have reduced Ms. Jones' countable resources below the allowable limit, making her eligible for benefits. Because Ms. Jones thought that she would be ineligible, she decides not to file an application for SSI benefits. Ms. Jones later reads about resource exclusions under the SSI program. She recontacts the Social Security office to file an SSI application, and alleges that she had been previously misinformed about her eligibility for SSI benefits. She files an application for SSI benefits, provides the information required under paragraph (f) of this section to show that an SSA employee provided misinformation, and requests a deemed filing date based upon her receipt of misinformation.

Example 2: Mr. Adams resides in a State which provides State supplementary payments that are administered by SSA under the SSI program. He telephones a Social Security office and tells an SSA employee that he does not have enough income to live on and wants to file for SSI benefits. Mr. Adams states that his only income is his monthly Social Security benefit check. The SSA employee checks Mr. Adams' Social Security record and advises him that he is ineligible for SSI benefits based on the amount of his monthly Social Security benefit. The employee does not consider whether Mr. Adams would be eligible for State supplementary payments. Because Mr. Adams was told that he would not be eligible for benefits under the SSI program, he does not file an application. The employee does not make a record of Mr. Adams' oral inquiry or take any other action. A year later, Mr. Adams speaks to a neighbor who receives the same Social Security benefit amount that Mr. Adams does, but also receives payments under the SSI program. Thinking the law may have changed, Mr. Adams recontacts a Social Security office and learns from an SSA employee that he would be eligible for State supplementary payments under the SSI program and that he could have received these payments earlier had he filed an application. Mr. Adams explains that he did not file an application earlier because he was told by an SSA employee that he was not eligible for SSI benefits. Mr. Adams files an application for the benefits, provides the information required under paragraph (f) of this section to show that an SSA employee provided misinformation, and requests a deemed filing date based on the misinformation provided to him earlier.

(b) *Deemed filing date of an application based on misinformation.* Subject to the requirements and conditions in paragraphs (c) through (g) of this section, we may establish a deemed filing date of an application for SSI benefits under the following provisions.

(1)(i) If we determine that you failed to apply for SSI benefits for yourself because we gave you misinformation about your eligibility for such benefits, we will deem an application for such benefits to have been filed with us on the later of—

(A) The date on which the misinformation was provided to you; or

(B) The date on which you met all of the requirements for eligibility for such benefits, other than the requirement of filing an application.

(ii) Before we may establish a deemed filing date of an application for benefits for you under paragraph (b)(1)(i) of this section, you or a person described in § 416.315 must file an application for such benefits. If you die before an application for the benefits is filed with us, we will consider establishing a deemed filing date of an application for such benefits only if a person who would be qualified under § 416.542(b) to receive any benefits due you, or someone on his or her behalf, files an application for the benefits.

(2)(i) If you had authority under § 416.315 to sign an application for benefits for another person, and we determine that you failed to apply for SSI benefits for that person because we gave you misinformation about that person's eligibility for such benefits, we will deem an application for such benefits to have been filed with us on the later of—

(A) The date on which the misinformation was provided to you; or

(B) The date on which the person met all of the requirements for eligibility for such benefits, other than the requirement of filing an application.

(ii) Before we may establish a deemed filing date of an application for benefits for the person under paragraph (b)(2)(i) of this section, you, such person, or another person described in § 416.315 must file an application for such benefits. If the person referred to in paragraph (b)(2)(i) of this section dies before an application for the benefits is filed with us, we will consider establishing a deemed filing date of an application for such benefits only if a person who would be qualified under § 416.542(b) to receive any benefits due the deceased person, or someone on his behalf, files an application for the benefits.

(c) *Requirements concerning the misinformation.* We apply the following requirements for purposes of paragraph (b) of this section.

(1) The misinformation must have been provided to you by one of our employees while he or she was acting in his or her official capacity as our

employee. For purposes of this section, an employee includes an officer of SSA.

(2) Misinformation is information which we consider to be incorrect, misleading, or incomplete in view of the facts which you gave to the employee, or of which the employee was aware or should have been aware, regarding your particular circumstances, or the particular circumstances of the person referred to in paragraph (b)(2)(i) of this section. In addition, for us to find that the information you received was incomplete, the employee must have failed to provide you with the appropriate, additional information which he or she would be required to provide in carrying out his or her official duties.

(3) The misinformation may have been provided to you orally or in writing.

(4) The misinformation must have been provided to you in response to a specific request by you to us for information about your eligibility for benefits or the eligibility for benefits of the person referred to in paragraph (b)(2)(i) of this section for which you were considering filing an application.

(d) *Evidence that misinformation was provided.* We will consider the following evidence in making a determination under paragraph (b) of this section.

(1) *Preferred evidence.* Preferred evidence is written evidence which relates directly to your inquiry about your eligibility for benefits or the eligibility of another person and which shows that we gave you misinformation which caused you not to file an application. Preferred evidence includes, but is not limited to, the following—

(i) A notice, letter, or other document which was issued by us and addressed to you; or

(ii) Our record of your telephone call, letter, or in-person contact.

(2) *Other evidence.* In the absence of preferred evidence, we will consider other evidence, including your statements about the alleged misinformation, to determine whether we gave you misinformation which caused you not to file an application. We will not find that we gave you misinformation, however, based solely on your statements. Other evidence which you provide or which we obtain must support your statements. Evidence which we will consider includes, but is not limited to, the following—

(i) Your statements about the alleged misinformation, including statements about—

(A) The date and time of the alleged contact(s);

(B) How the contact was made, e.g., by telephone or in person;

(C) The reason(s) the contact was made;

(D) Who gave the misinformation; and

(E) The questions you asked and the facts you gave us, and the questions we asked and the information we gave you at the time of the contact;

(ii) Statements from others who were present when you were given the alleged misinformation, e.g., a neighbor who accompanied you to our office;

(iii) If you can identify the employee or the employee can recall your inquiry about benefits—

(A) Statements from the employee concerning the alleged contact, including statements about the questions you asked, the facts you gave, the questions the employee asked, and the information provided to you at the time of the alleged contact; and

(B) Our assessment of the likelihood that the employee provided the alleged misinformation;

(iv) An evaluation of the credibility and the validity of your allegations in conjunction with other relevant information; and

(v) Any other information regarding your alleged contact.

(e) *Information which does not constitute satisfactory proof that misinformation was given.* Certain kinds of information will not be considered satisfactory proof that we gave you misinformation which caused you not to file an application. Examples of such information include—

(1) General informational pamphlets that we issue to provide basic program information;

(2) The SSI Benefit Estimate Letter that is based on an individual's reported and projected income and is an estimate which can be requested at any time;

(3) General information which we review or prepare but which is disseminated by the media, e.g., radio, television, magazines, and newspapers; and

(4) Information provided by other governmental agencies, e.g., the Department of Veterans Affairs, the Department of Defense, State unemployment agencies, and State and local governments.

(f) *Claim for benefits based on misinformation.* You may make a claim for benefits based on misinformation at any time. Your claim must contain information that will enable us to determine if we did provide misinformation to you about your eligibility for SSI benefits, or the eligibility of a person on whose behalf you were considering applying for benefits, which caused you not to file an application for the benefits. Specifically, your claim must be in writing and it must explain what information was provided; how, when, and where it was provided and by whom; and why the information caused you not to file an application. If you give us this information, we will make a determination on such a claim for benefits if all of the following conditions are also met.

(1) An application for the benefits described in paragraph (b)(1)(i) or (b)(2)(i) of this section is filed with us by someone described in paragraph (b)(1)(ii) or (b)(2)(ii) of this section, as appropriate. The application must be filed after the alleged misinformation was provided. This application may be—

(i) An application on which we have made a previous final determination or decision awarding the benefits, but only if the claimant continues to be eligible for benefits (or again could be eligible for benefits) based on that application;

(ii) An application on which we have made a previous final determination or decision denying the benefits, but only if such determination or decision is reopened under § 416.1488; or

(iii) A new application on which we have not made a final determination or decision.

(2) The establishment of a deemed filing date of an application for benefits based on misinformation could result in the claimant becoming eligible for benefits or for additional benefits.

(3) We have not made a previous final determination or decision to which you were a party on a claim for benefits based on alleged misinformation involving the same facts and issues. This provision does not apply, however, if the final determination or decision may be reopened under § 416.1488.

(g) *Effective date.* This section applies only to misinformation which we provided on or after December 19, 1989. In addition, this section is effective only for benefits payable for months after December 1989.

5. The authority citation for Subpart N continues to read as follows:

Authority: Secs. 1102, 1631, and 1633 of the Social Security Act; 42 U.S.C. 1302, 1383, and 1383b.

6. Section 416.1402 is amended by removing "and" following the semicolon at the end of paragraph (k), by inserting a semicolon in place of the period at the end of paragraph (l) and adding "and" following such semicolon, and by adding a new paragraph (m) to read as follows:

§ 416.1402 Administrative actions that are initial determinations.

* * * * *

(m) A claim for benefits under § 416.351 based on alleged misinformation.

7. Section 416.1403 is amended by removing "and" following the semicolon at the end of paragraph (a)(7), by inserting semicolons in place of the periods at the end of paragraphs (a)(2), (a)(8), (a)(9), (a)(10) and (a)(11), by adding "and" following such semicolon at the end of paragraph (a)(11), by inserting "payee (see" in place of "payee. (See" in paragraph (a)(11), and by adding a new paragraph (a)(12) to read as follows:

§ 416.1403 Administrative actions that are not initial determinations.

(a) * * *

(12) Declining under § 416.351(f) to make a determination on a claim for benefits based on alleged misinformation because one or more of the conditions specified in § 416.351(f) are not met;

* * * * *

[FR Doc. 94–20519 Filed 8–30–94; 8:45 am]

BILLING CODE 4190–29–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

706 Agencies; Louisiana (LA) Commission on Human Rights

AGENCY: Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Employment Opportunity Commission amends its regulations designating certain State and local fair employment practices agencies (706 Agencies) so that they may handle employment discrimination charges within their jurisdictions. Publication of this amendment effectuates the designation of the Louisiana (LA) Commission on Human Rights.

EFFECTIVE DATE: August 31, 1994.

FOR FURTHER INFORMATION CONTACT: Boyce Nolan, Employment Opportunity Commission, Office of Program Operations, Charge Resolution Review Program, 1801 L Street, N.W., Washington, D.C. 20507, Telephone (202) 663–4856.

SUPPLEMENTARY INFORMATION:

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

Accordingly, title 29, chapter XIV, part 1601 of the Code of Federal Regulations is amended as follows:

PART 1601—PROCEDURAL REGULATIONS

1. The authority citation for part 1601 continues to read as follows:

Authority: 42 U.S.C. 2000e to 2000e–17; 42 U.S.C. 12111 to 12117.

2. Section 1601.74(a) is amended by adding in alphabetical order the following agency:

Section 1601.74 Designated and notice agencies.

(a) * * *

Louisiana (LA) Commission on Human Rights

* * * * *

Signed at Washington, D.C. this 25th day of August, 1994.

For the Commission.

James H. Troy,

Director, Office of Program Operations.

[FR Doc. 94–21398 Filed 8–30–94; 8:45 am]

BILLING CODE 6750–01–M

PANAMA CANAL COMMISSION

35 CFR Part 103

RIN 3207–AA36

General Provisions Governing Vessels

AGENCY: Panama Canal Commission.

ACTION: Final rule.

SUMMARY: On October 1, 1994, the existing rules for measurement of vessels using the Panama Canal will be replaced with the Panama Canal Universal Measurement System (PC/UMS). Currently, fees for booking transits at the Panama Canal are assessed at a fixed rate per Panama Canal Gross Ton. Inasmuch as the PC/UMS will no longer utilize a Panama Canal Gross Tonnage value, fees for the use of the transit booking system should be assessed on some other basis. This final rule authorizes retention of the existing method of calculating booking fees for vessels subject to PC/UMS transitional relief measures and the fixing of fees for all other vessels in reference to the PC/UMS Net Ton.

EFFECTIVE DATE: October 1, 1994.

FOR FURTHER INFORMATION CONTACT: Michael Rhode, Jr., Secretary, Panama Canal Commission, 1825 I Street NW, Suite 1050, Washington, DC 20006–5402, (Telephone: (202) 634–6441), (Facsimile: (202) 634–6439).

SUPPLEMENTARY INFORMATION: On August 17, 1994, the President approved a final rule with respect to a related matter—the complete revision of the Rules for Measurement of Vessels for the Panama Canal as set forth in 35 CFR part 135. That final rule was published in the **Federal Register** (59 FR 43254) on August 22, 1994. The new measurement rules become effective October 1, 1994.

Corresponding changes in the transit booking system regulations are necessary to reconcile 35 CFR § 103.8(e) with the aforementioned revisions to the rules for measurement of vessels using the Panama Canal. On August 16, 1994 a proposed rule with a request for comments was published in the Federal **Register** (59 FR 41997). In addition, the Commission provided individual notice to various shipping associations and agents. No substantive comments were received which necessitate change in the final rule.

Under existing § 103.8(e), fees for booking transits at Panama Canal are assessed at $0.23 per Panama Canal Gross Ton. With the replacement of the existing measurement system on October 1, 1994, a Panama Canal Gross Ton value will no longer exist. Instead, the new PC/UMS will utilize a PC/UMS Net Ton value. Accordingly, in order to continue using tonnage as the basis for rate assessment for the transit booking system, fees must be assessed on the tonnage value used in the PC/UMS. Therefore, transit booking fees will be fixed in relation to the PC/UMS Net Ton for vessels transiting the Canal for the first time after September 30, 1994. The final rule also provides special relief measures for vessels which have previously transited the Canal. These measures serve to minimize the financial impact of the change on the individual customer.

In the first category—vessels which have not transited the Canal before October 1, 1994, the final rule establishes a new rate of $0.26 per PC/UMS Net Ton. This rate of $0.26 per PC/UMS Net Ton is expected to result in a booking fee near the rate assessed under the existing system. In other words, the amount paid by an individual vessel at $0.26 per PC/UMS Net Ton will closely approximate the amount it would have paid at $0.23 per Panama Canal Gross Ton. The new booking fee rate will be applied to a limited number of vessels inasmuch as the number of first-time transits involves a relatively small number of vessels each year.

As noted above, the Commission's intention is to revise the rate in a manner which maintains fees at approximately the same level as currently paid by individual vessels.

Inasmuch as the revision is designed to reconcile paragraph 103.8(e) with the new standard tonnage measurement and not to otherwise alter the booking fees, the establishment of the $0.26 rate will approximate present booking fees without increasing customer costs.

For the other and larger category—vessels which have previously transited the Canal, the final rule retains the existing booking fee computation method. This provision has its genesis in the revisions to the Rules for Measurement of Vessels using the Panama Canal. The PC/UMS contains transitional relief measures which preserve existing tonnage for ships transiting the Canal between March 23, 1976 (the date of the last significant rules change) and September 30, 1994, inclusive. The final booking fee rule provides that the existing method for assessing booking fees for these vessels be similarly retained. Vessels meeting the aforementioned PC/UMS requirements for transitional relief which use the booking system after September 30, 1994 will not be affected inasmuch as they will continue to pay the same fee—$0.23 per Panama Canal Gross Ton. For these previously-transiting vessels, the booking fee would change only in the event the vessel undergoes a significant structural change, defined in the PC/UMS as a change in the volume of the vessel of 10% or more. Under the PC/UMS, a vessel undergoing a significant structural change loses its entitlement to the relief measures and becomes subject to application of the PC/UMS measurement formulas. In such an instance, the new rate of $0.26 per PC/UMS Net Ton will be applied to the vessel.

The Commission has been exempted from Executive Order 12866 and, accordingly, the provisions of that directive do not apply to this final rule. Even if the order were applicable, the final rule, which concerns "rates" and "practices relating" thereto, would not constitute a "rule" as that term is defined in the Regulatory Flexibility Act (5 U.S.C. 601(2)) and would not have a significant impact on a substantial number of small entities under that Act.

A review of the environmental effect of the final rule concludes that it will not have a significant effect on the quality of the human environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969.

Finally, the Administrator of the Panama Canal Commission certifies that these regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order No. 12778.

List of Subjects in 35 Part 103

Advance reservations, Booking system, Order of transit, Panama Canal, Vessels.

Accordingly, for the reasons set forth above, 35 CFR part 103 is amended as follows:

PART 103—GENERAL PROVISIONS GOVERNING VESSELS

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

Authority: 22 U.S.C. 3791, E.O. 12215, 45 FR 36043, 3 CFR, 1981 Comp., p. 257.

2. Paragraph (e) of § 103.8 is revised to read as follows:

§ 103.8 Preference in the transit schedule; order of transiting vessels.

* * * * *

(e) *Booking fees.* (1) For vessels measured in accordance with § 135.13(a) of this chapter, the fee for booking shall be $0.26 per PC/UMS Net Ton.

(2) For vessels subject to the transitional relief measures of § 135.31 of this chapter and measured in accordance with § 135.13(b) of this chapter, the fee for booking shall be $0.23 per Panama Canal Gross Ton as specified on the last certificate issued by the Panama Canal Commission between March 23, 1976 and September 30, 1994, inclusive.

(3) The minimum booking fee for any vessel is $1,500.

* * * * *

(Existing collections of information are approved under Office of Management and Budget (OMB) control number 3207–0001. Modifications are being submitted to OMB for approval.)

Dated: August 26, 1994.

Gilberto Guardia F.,

Administrator, Panama Canal Commission.

[FR Doc. 94–21452 Filed 8–30–94; 8:45 am]

BILLING CODE 3640–04–P

POSTAL SERVICE

39 CFR Part 111

Revisions to Standards for Walk-Sequenced Bulk Third-Class Mail

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends Domestic Mail Manual standards concerning walk-sequenced bulk third-class mail to require an identifying marking on each piece.

EFFECTIVE DATE: December 10, 1994.

FOR FURTHER INFORMATION CONTACT: Joseph Moeller, (202) 268–2660.

SUPPLEMENTARY INFORMATION: On July 20, 1994, the Postal Service published for public comment a proposed rule that would amend the Domestic Mail Manual (DMM) standards for walk-sequence rate third-class mail. 59 FR 37011. Under current DMM section M304.3.2, mailpieces claimed at a walk-sequence rate must be so identified either by a marking on the piece or by a facing slip on the top of each package of such pieces. The proposed rule would make the on-piece rate marking a requirement; facing slips would still be allowed, but they would no longer fulfill the requirement for identifying the mail as walk-sequence rate. The proposed requirement would allow the Postal Service to quantify more precisely the costs of walk-sequenced mail through its existing cost systems.

The Postal Service received comments on the proposed rule from four parties. Only one party recommended retaining the use of facing slips as a fulfillment of the requirement to identify walk-sequenced mailings. The commenter stated that because only a small segment of qualifying mail uses facing slips, the slips should not cause problems for the Postal Service. However, allowing facing slips rather than the marking could support a contention that some costs were not being captured by postal cost systems and thus cast doubt on the validity of the resulting cost estimates. The Postal Service feels that the value of obtaining reliable cost data for walk-sequenced mail outweighs the minor inconvenience that the requirement would cause for this small segment of mail.

Two commenters suggested that the Postal Service require other rate markings that would allow an even finer breakdown of costs by its cost systems. The Postal Service feels that the additional markings would represent a more significant change than what was contained in the proposed rule. Moreover, it is unclear that the benefits from more detailed costing warrant such a major change in mail preparation requirements. Therefore, the Postal Service is limiting this rulemaking to the new marking requirements for walk-sequenced mail.

One commenter sought clarification regarding the application of the proposed rule to mailings using detached address cards. Only the detached address card will be required to bear the marking, not the item accompanying the card.

Another commenter stated that the requirement of two additional characters (WS) takes up more space in an already crowded area. The Postal Service is sympathetic to this concern