

part 997 to its regulations to implement provisions of Gramm-Leach-Bliley, Pub. L. No. 106-102, 113 Stat. 1338, 1455-56 (Nov. 12, 1999) related to adjustments in the end-date for the statutorily required annual payments made by the Banks to REFCORP. In § 997.5 of this new part, the annual value of the annuity referenced in section 607 of Gramm-Leach-Bliley was inadvertently omitted. To avoid any confusion as to the meaning of the rule, this correction adds the relevant value to the final rule.

Correction of Publication

For the reasons set forth above, the Finance Board hereby corrects FR Doc. 00-8116, published in the **Federal Register** on April 3, 2000 (65 FR 17435) as follows.

§ 997.5 [Corrected]

1. On page 17438, in the third column, add to § 997.5, paragraph (a), line 8, the phrase “of \$300 million per year” after the word “annuity.”

Dated: June 22, 2000.

By the Board of Directors of the Federal Housing Finance Board.

Bruce A. Morrison,
Chairman.

[FR Doc. 00-16543 Filed 6-29-00; 8:45 am]

BILLING CODE 6725-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00-ASO-12]

Establishment of Class D Airspace; Stuart, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class D airspace at Stuart, FL. Air traffic controllers at Witham Field in Stuart, FL, will be certificated weather observers by October 5, 2000. Therefore, the airport will meet criteria for Class D airspace on October 5, 2000. Class D surface area airspace is required when the control tower is open to accommodate current Standard Instrument Approach Procedures (SIAPs) and for Instrument Flight Rules (IFR) operations at the airport. This section establishes Class D airspace extending upward from the surface to and including 2,500 feet MSL within a 4-mile radius of the Witham Field Airport.

EFFECTIVE DATE: 0901 UTC, October 5, 2000.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5627.

SUPPLEMENTARY INFORMATION:

History

On May 5, 2000, the FAA proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class D airspace at Stuart, FL (65 FR 26154). Designations for Class D airspace extending upward from the surface of the earth are published in FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference by 14 CFR part 71.1. The Class D designations listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposed were received.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class D airspace at Key West NAS.

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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule 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 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp. p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO FL D Stuart, FL [New]

Witham Field Airport, FL

(Lat. 27°10'54"N, long. 80°13'16"W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4-mile radius of Witham Field Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on June 22, 2000.

Wade T. Carpenter,

*Acting Manager, Air Traffic Division,
Southern Region.*

[FR Doc. 00-16660 Filed 6-29-00; 8:45 am]

BILLING CODE 4910-13-M

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 416

RIN 0960-AE77

Denial of Supplemental Security Income (SSI) Benefits for Fugitive Felons and Probation and Parole Violators

AGENCY: Social Security Administration (SSA).

ACTION: Final rules.

SUMMARY: These final regulations change our rules to reflect an amendment to the Social Security Act (the Act) made by Public Law (Pub. L.) 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The amendment prohibits payment of SSI benefits to certain fugitives and probation and parole violators.

EFFECTIVE DATE: These final regulations are effective July 31, 2000.

FOR FURTHER INFORMATION CONTACT:

Teresa Robinson, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 3-R-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-7960 or TTY (410) 966-5609. For information on eligibility, claiming benefits, or coverage of earnings, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778.

SUPPLEMENTARY INFORMATION:

Background

Section 202(a) of Pub. L. 104-193 added section 1611(e)(5) of the Act to preclude eligibility for SSI benefits for certain fugitives and probation and parole violators. In general, section 1611(e)(5) of the Act provides that a person shall not be considered an eligible individual or eligible spouse for purposes of the SSI program for any month during which the person is—

- Fleeing to avoid prosecution for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State);

- Fleeing to avoid custody or confinement after conviction for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State); or

- Violating a condition of probation or parole imposed under Federal or State law.

Section 1611(e)(5) of the Act was effective on August 22, 1996, the date of the enactment of Pub. L. 104-193, and applies with respect to eligibility for SSI benefits for months beginning in August 1996.

Explanation of Final Regulations

These final rules amend our regulations for the SSI program to indicate that a person will not be eligible for SSI benefits under the circumstances described in section 1611(e)(5) of the Act. They make changes to our regulations in subparts B, G, and M of 20 CFR part 416 to implement section 202(a) of Pub. L. 104-193.

Subpart B explains the general rules that we apply in determining a person's eligibility for SSI benefits. In general, a person may be eligible for SSI benefits if he or she is a resident of the United

States, has limited income and resources, and is age 65 or older, blind, or disabled.

Section 416.202 of subpart B lists the basic requirements which must be met in order for a person to be eligible for SSI benefits. We are amending § 416.202 to state that, in order to be eligible for SSI benefits, a person must not be—

- (1) Fleeing to avoid prosecution for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State);

- (2) Fleeing to avoid custody or confinement after conviction for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State); or

- (3) Violating a condition of probation or parole imposed under Federal or State law.

To make this change, we are redesignating existing paragraph (f) of § 416.202 as paragraph (g) and adding a new paragraph (f) which would contain the provisions described above.

Our regulations in subpart G of part 416 require an SSI recipient, a representative payee of an SSI recipient, or an applicant for SSI benefits to report events that may affect eligibility or continued eligibility for SSI benefits or the amount of benefits. The regulations explain that a failure to make a timely report of such an event may result in the assessment of a penalty deduction against an individual's benefits.

We recognize that many SSI applicants do not report their status under section 1611(e)(5) of the Act to us. Thus, we will not depend on the reports of the individual recipient or applicant for information that he or she is fleeing prosecution, custody or confinement or violating a condition of probation or parole. We will seek law enforcement information in determining whether someone is ineligible under this provision. Our principal source will be records of Federal and State law enforcement agencies and penal institutions, but we will continue to explore all avenues of information which will help us decide whether individuals are ineligible, particularly under the provisions of section 1611(e)(5) of the Act.

Even though we will not be considering claimants as a primary source of information regarding their status under section 1615(e)(5), it is important to include this self-reporting requirement in the regulations for

purposes of imposing monetary penalties under the Act. Section 416.708 of subpart G describes events which must be reported by an individual receiving SSI benefits, a representative payee for an SSI recipient, or an applicant awaiting a final decision on an application for SSI benefits. We are amending § 416.708 by adding a new paragraph (o) to provide that an individual must report to us that he or she is fleeing to avoid prosecution for a crime, fleeing to avoid custody or confinement after conviction for a crime, or violating a condition of probation or parole, in the circumstances described in section 1611(e)(5) of the Act.

Subpart M of part 416 provides rules for suspending or terminating an individual's SSI benefit payments when he or she no longer meets the requirements for eligibility for SSI benefits. We are adding new § 416.1339 to this subpart to explain the requirement to suspend payments when an SSI recipient is found to be an individual who falls under one of the provisions of section 1611(e)(5) of the Act.

Section 416.1339 provides that suspension of benefit payments because an individual is a fugitive or a probation or parole violator, as described above, is effective with the first day of whichever of the following months is earlier—

- The month in which a warrant or order for the individual's arrest or apprehension, an order requiring the individual's appearance before a court or other appropriate tribunal (e.g., a parole board), or a similar order is issued by a court or other duly authorized tribunal on the basis of an appropriate finding that the individual—

- (1) Is fleeing, or has fled, to avoid prosecution for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State);

- (2) Is fleeing, or has fled, to avoid custody or confinement after conviction for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State); or

- (3) Is violating, or has violated, a condition of his or her probation or parole imposed under Federal or State law; or

- The first month during which the individual fled to avoid such prosecution, fled to avoid such custody

or confinement after conviction, or violated a condition of his or her probation or parole, if indicated in such warrant or order, or in a decision by a court or other appropriate tribunal.

Section 416.1339 explains that an individual will not be considered to be ineligible for SSI benefits and benefit payments will not be suspended under the provisions of that section for any month prior to August 1996.

Section 416.1339 also explains that benefits will be resumed, if otherwise payable, effective with the first month throughout which the individual is determined to be no longer fleeing to avoid such prosecution, fleeing to avoid such custody or confinement after conviction, or violating a condition of his or her probation or parole.

We are also amending the second sentence of § 416.1337(b)(3)(ii) which contains a cross-reference to the sections of subpart M which describe conditions under which SSI benefits are suspended. We are revising the cross-reference to include a reference to new § 416.1339.

Comments on Notice of Proposed Rulemaking (NPRM)

On June 12, 1998, we published an NPRM in the **Federal Register** at 63 FR 32161 proposing to change our rules to prohibit payment of SSI benefits to certain fugitives and probation and parole violators. Interested parties were invited to participate in this rulemaking proceeding and were afforded 60 days within which to submit written comments on the proposal to SSA. We received two letters with public comments. Following are summaries of these comments and our responses to them.

Comment: One commenter said that he interprets “fleeing to avoid prosecution for a crime” to mean that the person fleeing has been indicted for a criminal act. He questions whether, absent an indictment, one can truly say that an individual is fleeing prosecution for a crime.

Response: While we understand the points raised by the commenter, we do not agree with this interpretation of the statute. Prosecution of an individual includes all steps necessary to reach a judicial determination of guilt or innocence beginning the day the information, criminal complaint or petition is filed with the proper authorities and a warrant is issued. This occurs when law enforcement personnel present evidence to a judge or magistrate that convinces him or her that it is reasonably likely that a crime has taken place and that the individual is criminally responsible for that crime.

In these cases, the judge or magistrate issues a warrant for the individual’s arrest. For an individual to be indicted, an accusation must be found and presented to the court by a grand jury. Because there are situations in which individuals are prosecuted without indictment, it would be contrary to statute to adopt this suggestion.

Comment: This same commenter points out that the proposed regulations fail to say whether or not an individual must be aware that he or she has been indicted for an alleged criminal act.

Response: We have no way of determining whether or not an individual is aware that he or she is wanted for a criminal offense and is knowingly fleeing from prosecution. We must rely on official reports and other similar determinations from various law enforcement agencies that an individual is fleeing to avoid prosecution.

Comment: This commenter also suggested that we further define “violating a condition of probation or parole imposed under Federal or State law,” to exclude minor infractions such as missing an appointment with a parole officer. The commenter feels that unless an individual has been adjudicated by a State or by the Federal government to be in violation of probation or parole, SSA has no basis for discontinuing or denying benefits.

Response: As we state in § 416.1339(b) of these final rules, SSI payments will be stopped when a court or other authorized tribunal finds that the individual is violating, or has violated, a condition of his or her probation or parole and the court has either: issued an order for the individual’s arrest or apprehension, or issued an order requiring the individual’s appearance before a court or other tribunal. Of course, individuals may dispute a finding that they are in violation of their probation or parole with the reporting agency.

Comment: In addition to the above comments, the commenter expressed concern about the overly strict implementation of this statute and the impact it will have on petty criminals. He cited an example of an individual who moved to a different State ten years ago, thereby violating a condition of his parole commitment. The originating crime was not violent in nature and the State with jurisdiction of the parole order does not seek to have him returned. The commenter indicates that this example should not be covered under this provision of the law.

Response: We disagree with the commenter’s interpretation of the statute. Section 1611(e)(5) of the Act prohibits SSI benefits to any person who

is violating a condition of probation or parole imposed under Federal or State law. Congress did not provide exceptions to this rule based on the nature of the originating crime or the State’s reluctance to extradite the individual. We believe this legislation was passed to purposely prohibit the expenditure of Federal funds to aid those who are violating the law. However, as we explained earlier, we will not suspend an individual’s SSI benefit until a court or other authorized tribunal determines that his or her parole has been violated, and has issued an official document.

Comment: The other commenter pointed out what he sees as redundancy in the phrase “crime, or an attempt to commit a crime, which is a felony.” He makes the argument that “an attempt to commit a crime” actually is a crime. In this commenter’s opinion, the phrase “or an attempt to commit a crime” is illogical and confusing and should be omitted.

Response: To adopt this position, we must presume that Congress intended that the crime itself and the crime of attempting to commit a crime both be of felony-level severity. Under this interpretation, we agree that the phrase “attempt to commit a crime” would be rendered meaningless. However, we are required to give effect to all the language of the statute. We believe that the wording of section 1611(e)(5) and its legislative history support our position that Congress intended that the crime the individual attempts to commit must be a felony, but the crime of attempting to commit that crime does not necessarily have to be. Therefore, the omission of the phrase “or an attempt to commit a crime” would not accurately reflect the congressional intent in our final rules, and its inclusion is not redundant.

For the reasons discussed above, we have not changed the text of the proposed rules to reflect the public comments. However, we have made one minor technical correction to § 416.1337 to change the word “him” to say “him or her”. Other than this one minor technical change, we are publishing the proposed regulations unchanged as final regulations.

Regulatory Procedures

Executive Order 12866

These final rules have been reviewed by the Office of Management and Budget (OMB) under the provisions of Executive Order 12866.

Regulatory Flexibility Act

We certify that these final regulations will not have a significant economic impact on a substantial number of small entities because these rules affect only individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, as amended by Pub. L. 104-121, is not required.

Paperwork Reduction Act

These final rules contain a reporting requirement in § 416.708(o). As required by 44 U.S.C. 3507, as amended by section 2 of the Paperwork Reduction Act of 1995, we submitted a copy of these rules to OMB for its review and OMB has approved the reporting requirement under OMB No. 0960-0617.

The information collected will be used by SSA to deny eligibility for SSI benefits or to suspend SSI benefit payments to individuals who flee to avoid prosecution, or custody or confinement after conviction, or who violate a condition of probation or parole. The respondents are SSI applicants, recipients or representative payees. We estimate that the reporting burden will be 1 minute per response for 1,000 respondents, resulting in 16.7 annual burden hours. This includes the time it will take to read any instructions and provide the information.

(Catalog of Federal Domestic Assistance Program No 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 416

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

Dated: April 14, 2000.

Kenneth S. Apfel,

Commissioner of Social Security.

For the reasons set out in the preamble, subparts B, G, and M of part 416 of chapter III of title 20 of the Code of Federal Regulations are amended as follows:

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED**Subpart B—[Amended]**

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

Authority: Secs. 702(a)(5), 1110(b), 1602, 1611, 1614, 1615(c), 1619(a), 1631, and 1634 of the Social Security Act (42 U.S.C. 902(a)(5), 1310(b), 1381a, 1382, 1382c,

1382d(c), 1382h(a), 1383, and 1383c); secs. 211 and 212, Pub. L. 93-66, 87 Stat. 154 and 155 (42 U.S.C. 1382 note); sec. 502(a), Pub. L. 94-241, 90 Stat. 268 (48 U.S.C. 1681 note); sec. 2, Pub. L. 99-643, 100 Stat. 3574 (42 U.S.C. 1382h note).

2. Section 416.202 is amended by redesignating paragraph (f) as paragraph (g) and by adding a new paragraph (f) to read as follows:

§ 416.202 Who may get SSI benefits.

* * * * *

(f) You are not—

(1) Fleeing to avoid prosecution for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which you flee (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State);

(2) Fleeing to avoid custody or confinement after conviction for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which you flee (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State); or

(3) Violating a condition of probation or parole imposed under Federal or State law.

* * * * *

Subpart G—[Amended]

3. The authority citation for subpart G of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1611, 1612, 1613, 1614, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382, 1382a, 1382b, 1382c, and 1383); sec. 211, Pub. L. 93-66, 87 Stat. 154 (42 U.S.C. 1382 note).

4. Section 416.708 is amended by adding a new paragraph (o) to read as follows:

§ 416.708 What you must report.

* * * * *

(o) *Fleeing to avoid criminal prosecution or custody or confinement after conviction, or violating probation or parole.* You must report to us that you are—

(1) Fleeing to avoid prosecution for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which you flee (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State);

(2) Fleeing to avoid custody or confinement after conviction for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which you flee (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State); or

(3) Violating a condition of probation or parole imposed under Federal or State law.

Subpart M—[Amended]

5. The authority citation for subpart M of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1611-1615, 1619, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382-1382d, 1382h, and 1383).

6. In § 416.1337, the second sentence of paragraph (b)(3)(ii) is revised to read as follows:

§ 416.1337 Exceptions to the continuation of previously established payment level.

* * * * *

(b) * * *

(3) * * *

(ii) * * * However, if the individual's benefits had been correctly suspended as provided in §§ 416.1321 through 416.1330 or § 416.1339 and they should have remained suspended but a benefit that exceeded the dollar limitation was paid, no further payment shall be made to him or her at this time and notice of the planned action shall not contain any provision regarding continuation of payment pending appeal. * * *

* * * * *

7. Section 416.1339 is added to read as follows:

§ 416.1339 Suspension due to flight to avoid criminal prosecution or custody or confinement after conviction, or due to violation of probation or parole.

(a) *Basis for suspension.* An individual is ineligible for SSI benefits for any month during which he or she is—

(1) Fleeing to avoid prosecution for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State); or

(2) Fleeing to avoid custody or confinement after conviction for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State); or

(3) Violating a condition of probation or parole imposed under Federal or State law.

(b) *Suspension effective date.* (1) Suspension of benefit payments because an individual is a fugitive as described in paragraph (a)(1) or (a)(2) of this section or a probation or parole violator as described in paragraph (a)(3) of this section is effective with the first day of

whichever of the following months is earlier—

(i) The month in which a warrant or order for the individual's arrest or apprehension, an order requiring the individual's appearance before a court or other appropriate tribunal (*e.g.*, a parole board), or similar order is issued by a court or other duly authorized tribunal on the basis of an appropriate finding that the individual—

(A) Is fleeing, or has fled, to avoid prosecution as described in paragraph (a)(1) of this section;

(B) Is fleeing, or has fled, to avoid custody or confinement after conviction as described in paragraph (a)(2) of this section;

(C) Is violating, or has violated, a condition of his or her probation or parole as described in paragraph (a)(3) of this section; or

(ii) The first month during which the individual fled to avoid such prosecution, fled to avoid such custody or confinement after conviction, or violated a condition of his or her probation or parole, if indicated in such warrant or order, or in a decision by a court or other appropriate tribunal.

(2) An individual will not be considered to be ineligible for SSI benefits and benefit payments will not be suspended under this section for any month prior to August 1996.

(c) *Resumption of payments.* If benefits are otherwise payable, they will be resumed effective with the first month throughout which the individual is determined to be no longer fleeing to avoid such prosecution, fleeing to avoid such custody or confinement after conviction, or violating a condition of his or her probation or parole.

[FR Doc. 00-16553 Filed 6-29-00; 8:45 am]

BILLING CODE 4191-02-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket Nos. 94F-0185 and 95F-0111]

Indirect Food Additives: Paper and Paperboard Components

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 1,3-dihalo-5,5-dimethylhydantoin (where the dihalo

(halogen) may be bromine and/or chlorine) that may contain no more than 20 weight percent 1,3-dihalo-5-ethyl-5-methylhydantoin (where the dihalo (halogen) may be bromine and/or chlorine), as a slimicide in the manufacture of paper and paperboard intended to contact food. This action is in response to petitions filed by Great Lakes Chemical Corp. and Lonza, Inc.

DATES: This rule is effective June 30, 2000. Submit written objections and requests for a hearing by July 31, 2000.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Vivian M. Gilliam, Center for Food Safety and Applied Nutrition (HFS-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3094.

SUPPLEMENTARY INFORMATION: In a notice published in the *Federal Register* of June 14, 1994 (59 FR 30595), FDA announced that a food additive petition (FAP 4B4418) had been filed by Great Lakes Chemical Corp., P.O. Box 2200, West Lafayette, IN 47906-0200. The company is currently represented by Keller and Heckman, 1001 G St. NW., suite 500 West, Washington, DC 20001. The Great Lakes petition proposed to amend the food additive regulations in § 176.300 *Slimicides* (21 CFR 176.300) to provide for the safe use of 1-bromo-3-chloro-5,5-dimethylhydantoin (CAS Reg. No. 16079-88-2) as a slimicide in the manufacture of paper and paperboard intended to contact food.

Thereafter, in a notice published in the *Federal Register* of June 14, 1995 (60 FR 31319), FDA announced that a food additive petition (FAP 3B4382) had been filed by Lonza, Inc., c/o Delta Analytical Corp., 7910 Woodmont Ave., Bethesda, MD 20814. Lonza, Inc., is currently represented by Lewis and Harrison, 122 C St. NW., suite 740, Washington, DC 20001. The Lonza petition proposed to amend the food additive regulations in § 176.300 to provide for the safe use of a mixture of 1-bromo-3-chloro-5,5-dimethylhydantoin, 1,3-dichloro-5,5-dimethylhydantoin, and 1,3-dichloro-5-ethyl-5-methylhydantoin as a slimicide in the manufacture of paper and paperboard intended to contact food.

In the filing notice for FAP 4B4418, the additive was identified as 1-bromo-3-chloro-5,5-dimethylhydantoin (CAS Reg. No. 16079-88-2). This nomenclature and this CAS Reg. No. apply to a single discrete substance; however, the additive is actually an

equilibrium isomeric mixture of halogenated 5,5-dimethylhydantoin species. Subsequent to the filing of the petition, Great Lakes Chemical Corp. and FDA agreed that the additive is more appropriately identified as 1,3-dihalo-5,5-dimethylhydantoin (where the dihalo (halogen) may be bromine and/or chlorine).

In the filing notice for FAP 3B4382, the additive was identified as a mixture of 1-bromo-3-chloro-5,5-dimethylhydantoin and 1,3-dichloro-5,5-dimethylhydantoin and 1,3-dichloro-5-ethyl-5-methylhydantoin. However, the additive is actually an equilibrium isomeric mixture of halogenated 5,5-dimethylhydantoin and 5-ethyl-5-methyl hydantoin species. Lonza, Inc., and FDA agreed that the additive is more appropriately identified as 1,3-dihalo-5,5-dimethylhydantoin (where the dihalo (halogen) may be bromine and/or chlorine) that may contain no more than 20 weight percent 1,3-dihalo-5-ethyl-5-methylhydantoin (where the dihalo (halogen) may be bromine and/or chlorine). This description includes the use proposed by both Great Lakes Chemical Corp. and Lonza, Inc. Therefore, this final rule responds to both petitions.

FDA has evaluated data in the petitions and other relevant material. Based on this information, the agency concludes that: (1) The proposed use of the additive, 1,3-dihalo-5,5-dimethylhydantoin (where the dihalo (halogen) may be bromine and/or chlorine) that may contain no more than 20 weight percent 1,3-dihalo-5-ethyl-5-methylhydantoin (where the dihalo (halogen) may be bromine and/or chlorine), as a slimicide in the manufacture of paper and paperboard intended to contact food is safe; (2) the additive will achieve its intended technical effect; and therefore, (3) the regulations in § 176.300 should be amended as set forth below.

The additive, 1,3-dihalo-5,5-dimethylhydantoin (where the dihalo (halogen) may be bromine and/or chlorine) that may contain no more than 20 weight percent 1,3-dihalo-5-ethyl-5-methylhydantoin (where the dihalo (halogen) may be bromine and/or chlorine) intended for use as a slimicide in the manufacture of paper and paperboard intended to contact food is regulated under section 409 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348) as a food additive and not as a pesticide chemical under section 408 of the act (21 U.S.C. 346a). However, this intended use of 1,3-dihalo-5,5-dimethylhydantoin (where the dihalo (halogen) may be