

prescribe subject to the rulemaking procedures established under section 553 of the APA. Section 553(d) of the APA requires that the effective date of a substantive rule be no less than 30 days after its publication, except in cases of: Rules which grant or recognize an exemption or relieve a restriction; interpretative rules and statements of policy; or as otherwise provided by the agency for good cause found and published with the rule.

Under 5 U.S.C. 553(d)(3), good cause exists for dispensing with the minimum 30-day period between publication date and effective date. As indicated above, these regulations adopt without change the substantive provisions of the anti-lobbying common rule. A 30-day delay in the effective date of these regulations would serve no purpose since, during such delay, the identical provisions of Part 93, which implement the provisions of the anti-lobbying common rule, would remain applicable. Accordingly, these regulations are effective on publication.

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and have determined that these final rules do not meet the criteria for a significant regulatory action under Executive Order 12866, as amended by Executive Order 13258. Thus, they were not subject to OMB review. We have also determined that these rules meet the plain language requirement of Executive Order 12866, as amended by Executive Order 13258.

Regulatory Flexibility Act

We certify that these final rules will not have a significant economic impact on a substantial number of small entities because this rule merely reflects the adoption of existing grant policies and procedures by SSA and does not promulgate any new policies or procedures which would impact the public. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

The Paperwork Reduction Act (PRA) of 1995 says that no persons are required to respond to a collection of information unless it displays a valid OMB control number. In accordance with the PRA, SSA is providing notice that the Office of Management and Budget has approved the information collection requirements contained in § 438.110 of these final rules. The OMB Control Number for this collection is 0348-0046 (Standard Form—LLL (Disclosure Form to Report Lobbying)

(Catalog of Federal Domestic Assistance: Program No. 96.007—Social Security—Research and Demonstration; and Program No. 96.008—Social Security Administration—Benefits Planning, Assistance, and Outreach Program)

List of Subjects in 20 CFR Part 438

Administrative practice and procedures, Federal procurement programs, Grant programs.

Dated: April 25, 2003.

Jo Anne B. Barnhart,
Commissioner of Social Security.

■ For the reasons set out in the preamble, we are adding a new part 438 to chapter III of title 20 of the Code of Federal Regulations to read as follows:

■ 1. Part 438 is added to read as follows:

PART 438—RESTRICTIONS ON LOBBYING

Subpart A—General

Sec.

438.100 Conditions on use of funds.

438.105 Definitions.

438.110 Certification and disclosure.

Subpart B—Activities by Own Employees

438.200 Agency and legislative liaison.

438.205 Professional and technical services.

438.210 Reporting.

Subpart C—Activities by Other than Own Employees

438.300 Professional and technical services.

Subpart D—Penalties and Enforcement

438.400 Penalties.

438.405 Penalty procedures.

438.410 Enforcement.

Subpart E—Exemptions

438.500 Secretary of Defense.

Subpart F—Agency Reports

438.600 Semi-annual compilation.

438.605 Inspector General report.

Appendix A to Part 438—Certification

Regarding Lobbying

Appendix B to Part 438—Disclosure Form to Report Lobbying

Authority: 5 U.S.C. 301.

Subpart A—General

§ 438.100 Conditions on use of funds.

(a) No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of SSA, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any

cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) Each person who requests or receives from SSA a Federal contract, grant, loan, or cooperative agreement must file with SSA a certification, set forth in Appendix A to this part, that the person has not made, and will not make, any payment prohibited by paragraph (a) of this section.

(c) Each person who requests or receives from SSA a Federal contract, grant, loan, or a cooperative agreement must file with SSA a disclosure form, set forth in Appendix B to this part, if such person has made or has agreed to make any payment using non-appropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (a) of this section if paid for with appropriated funds.

(d) Each person who requests or receives from SSA a commitment providing for the United States to insure or guarantee a loan must file with SSA a statement, set forth in Appendix A to this part, whether that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of SSA, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

(e) Each person who requests or receives from SSA a commitment providing for the United States to insure or guarantee a loan must file with SSA a disclosure form, set forth in Appendix B to this part, if that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of SSA, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

§ 438.105 Definitions.

For purposes of this part:

Commissioner means the

Commissioner of Social Security.

Covered Federal action means any of the following Federal actions:

(1) The awarding of any Federal contract;

(2) The making of any Federal grant;

(3) The making of any Federal loan;

(4) The entering into of any cooperative agreement; and,

(5) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. Covered Federal action does not include receiving from