

provisions from our regulations to reflect the repeal of these sections of the Act does not involve the exercise of discretionary rulemaking authority, we find that it is unnecessary to publish proposed rules and offer the public the opportunity to comment before we publish final rules. Moreover, because our existing regulations are inconsistent with current law and could mislead the public, we also find that further delay in amending these regulations, to allow for public comment, would be contrary to the public interest.

#### *Making the Final Rules Effective Upon Publication*

Section 553(d) of 5 U.S.C. provides that, with certain exceptions, the effective date of a "substantive rule" shall not be less than 30 days after its publication. We find that good cause exists for an exception for these final rules. As noted above, these final rules merely reflect the statutory changes made by sections 101(b)(1)(C) and (b)(2)(B) of Public Law 106-170. For the reasons discussed in the section above entitled "Proceeding Directly to Final Rules," we find that delaying the effective date for 30 days after publication would also be unnecessary and contrary to the public interest. *See* 5 U.S.C. 553(d).

#### *Executive Order 12866*

The Office of Management and Budget (OMB) has reviewed these final rules in accordance with 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 they primarily affect only individuals, and those entities that voluntarily entered into a contractual agreement with us. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

#### *Paperwork Reduction Act*

These final regulations impose no reporting or recordkeeping requirements that require OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.004, Social Security-Survivors Insurance; and 96.006, Supplemental Security Income)

#### **List of Subjects**

##### *20 CFR Part 404*

Administrative practice and procedure, Blind, Disability benefits, Old-age, Survivors and Disability

Insurance, Reporting and recordkeeping requirements, Social Security, Vocational rehabilitation.

##### *20 CFR Part 416*

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI), Vocational rehabilitation.

Dated: April 9, 2003.

**Jo Anne B. Barnhart,**  
*Commissioner of Social Security.*

■ For the reasons set out in the preamble, we are amending subparts E, J, P, and V of part 404 and subparts B, G, M, Q, T, and V of part 416 of chapter III of title 20 of the Code of Federal Regulations as set forth below:

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

##### **Subpart E—[Amended]**

■ 1. The authority citation for subpart E of part 404 is revised to read as follows:

**Authority:** Secs. 202, 203, 204(a) and (e), 205(a) and (c), 216(l), 223(e), 224, 225, 702(a)(5), 1129A and 1147 of the Social Security Act (42 U.S.C. 402, 403, 404(a) and (e), 405(a) and (c), 416(l), 423(e), 424a, 425, 902(a)(5), 1320a-8a and 1320b-17).

■ 2. Amend § 404.401 by revising paragraph (b)(5), removing paragraph (b)(6), and redesignating paragraph (b)(7) as paragraph (b)(6) to read as follows:

**§ 404.401 Deduction, reduction, and nonpayment of monthly benefits or lump-sum death payments.**

\* \* \* \* \*

(b) \* \* \*

(5) Failure to report within the prescribed period earnings from work in employment or self-employment (*see* § 404.453); or

\* \* \* \* \*

■ 3. Amend § 404.402 by revising paragraph (a) introductory text, and paragraphs (b)(2) and (d)(4) to read as follows:

**§ 404.402 Interrelationship of deductions, reductions, adjustments, and nonpayment of benefits.**

(a) *Deductions, reductions, adjustment.* Deductions because of earnings or work (*see* §§ 404.415 and 404.417); failure to have a child "in his or her care" (*see* § 404.421); as a penalty for failure to timely report noncovered work outside the United States, failure to report that he or she no longer has a child "in his or her care," or failure to timely report earnings (*see* §§ 404.451 and 404.453); because of unpaid

maritime taxes (*see* § 404.457); or nonpayments because of drug addiction and alcoholism to individuals other than an insured individual who are entitled to benefits on the insured individual's earnings record are made:

\* \* \* \* \*

(b) \* \* \*

(2) Reduction of benefits because of entitlement to certain public disability benefits (*see* § 404.408) is made before deduction under section 203 of the Act relating to work (*see* §§ 404.415, 404.417, 404.451, and 404.453) and failure to have care of a child (*see* §§ 404.421 and 404.451).

\* \* \* \* \*

(d) \* \* \*

(4) Current deductions under §§ 404.417 and 404.421;

\* \* \* \* \*

■ 4. Amend § 404.412 by revising the title of the section and paragraph (a)(1) to read as follows:

**§ 404.412 After my benefits are reduced for age when and how will adjustments to that reduction be made?**

(a) \* \* \*

(1) Months subject to deduction under § 404.415 or § 404.417;

\* \* \* \* \*

■ 5. Amend § 404.421 by revising the title of the section and paragraph (d) to read as follows:

**§ 404.421 How are deductions made when a beneficiary fails to have a child in his or her care?**

\* \* \* \* \*

(d) *When a child is considered not entitled to benefits.* For purposes of paragraphs (a) and (b) of this section, a person is considered not entitled to child's benefits for any month in which she or he is age 18 or over and is entitled to child's benefits because she or he is a full-time student at an educational institution. This paragraph applies to benefits for months after December 1964.

##### **§ 404.222 [Removed]**

■ 6. Remove § 404.222.

■ 7. Amend § 404.423 by revising the first sentence to read as follows:

**§ 404.423 Manner of making deductions.**

Deductions provided for in §§ 404.415, 404.417, and 404.421 (as modified in § 404.458) are made by withholding benefits (in whole or in part, depending upon the amount to be withheld) for each month in which an event causing a deduction occurred.

\* \* \*

■ 8. Revise § 404.425 to read as follows: