

developing a Federal salary offset program.

### Regulatory Procedures

#### *Executive Order (E.O.) 12866*

The Office of Management and Budget (OMB) has reviewed these final rules in accordance with E.O. 12866, as amended by E.O. 13258.

#### *Regulatory Flexibility Act*

We certify that these final regulations will not have a significant impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis, as provided in the Regulatory Flexibility Act, as amended, is not required.

Some entities, as employers of some individuals who owe debts to us, will be subjected to these final regulations and to the certification requirement in proposed § 422.435(c). However, any particular small employer is not likely to receive wage garnishment orders from us concerning a significant number of employees. Under § 422.435(c), employers of delinquent debtors must certify certain information about the debtor's status such as the debtor's employment status and earnings. This information is contained in the employer's payroll records. Therefore, it will not take a significant amount of time or result in a significant cost for an employer to complete the certification form. Even if an employer receives withholding orders from us on several employees over the course of a year, the cost imposed on the employer to complete the certifications, withhold from disposable pay, and remit those amounts to us will not have a significant economic impact on that entity. Employers will not be required to vary their normal pay cycles to comply with a withholding order that is issued under these final rules.

#### *Federalism*

We have reviewed these final rules under the threshold criteria of E.O. 13132, "Federalism," and determined that they will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government.

Although States and local governments, as employers of some individuals who owe debts to us, are subject to these final regulations and to the certification requirement in § 422.435(c), there will be a relatively small number of debtors who will meet the criteria for selection who are employed by the States and local

governments. Any particular State or local government is not likely to receive AWG orders from us concerning a significant number of employees. Under § 422.435(c), States and local governments that employ delinquent debtors must certify certain information about the debtors' status such as the debtors' employment status and earnings. This information is contained in the States' or local governments' payroll records. Therefore, it will not take a significant amount of time or result in a significant cost for a State or local government to complete the certification form. Even if a State or local government receives AWG orders from us on several employees over the course of a year, the cost imposed on the State or local government to complete the certifications, withhold from disposable pay, and remit those amounts to us will not have a significant economic impact on that entity. States or local governments are not required to vary their normal pay cycles to comply with AWG orders that will be issued under these final rules.

#### *Paperwork Reduction Act*

The final rules in new subpart E of part 422 contain information collection activities at §§ 422.415, 422.425 and 422.435. However, the activities are exempt as administrative actions under 44 U.S.C. 3518(c)(1)(B)(ii) from the clearance requirements of 44 U.S.C. 3507 as amended by section 2 of Pub. L. 104-13 (May 22, 1995), the Paperwork Reduction Act of 1995.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.003 Social Security—Special Benefits for Persons Aged 72 and Over; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income)

### List of Subjects

#### *20 CFR Part 404*

Administrative practice and procedure; Death benefits; Blind, Disability benefits; Old-Age, Survivors and Disability Insurance; Reporting and recordkeeping requirements, Social Security.

#### *20 CFR Part 416*

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

#### *20 CFR Part 422*

Administrative practice and procedure, Organization and functions (Government agencies), Social Security.

Dated: November 10, 2003.

**Jo Anne B. Barnhart,**

*Commissioner of Social Security.*

■ For the reasons set out in the preamble, we are amending parts 404, 416 and 422 of Title 20 of the Code of Federal Regulations as follows:

### PART 404—[AMENDED]

■ 1. The authority citation for subpart F of part 404 continues to read as follows:

**Authority:** Secs. 204, 205(a), and 702(a)(5) of the Social Security Act (42 U.S.C. 404, 405(a) and 902(a)); 31 U.S.C. 3720A.

■ 2. Paragraph (a), introductory text, of § 404.527 is revised and paragraph (b)(1) is amended by removing "4 CFR 104.2 or 104.3." at the end of the paragraph and adding in its place "31 CFR 903.2 or 903.3."

The revised text reads as follows:

#### **§ 404.527 Additional methods for recovery of title II benefit overpayments.**

(a) *General.* In addition to the methods specified in §§ 404.502 and 404.520, an overpayment under title II of the Act is also subject to recovery under the rules in subparts D and E of part 422 of this chapter. Subpart D of part 422 of this chapter applies only under the following conditions:

\* \* \* \* \*

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

**Authority:** Secs. 201(j), 204(f), 205(a), (b), (d)–(h), and (j), 221, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 404(f), 405(a), (b), (d)–(h), and (j), 421, 425, and 902(a)(5)); sec. 5, Pub. L. 97-455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98-460, 98 Stat. 1802 (42 U.S.C. 421 note).

■ 4. Section 404.903 is amended by removing the word "and" at the end of paragraph (t), replacing the period at the end of paragraph (u) with "; and", and adding paragraph (v) to read as follows:

#### **§ 404.903 Administrative actions that are not initial determinations.**

\* \* \* \* \*

(v) Determining whether we will order your employer to withhold from your disposable pay to collect an overpayment you received under title II of the Social Security Act (*see* part 422, subpart E, of this chapter).

### PART 416—[AMENDED]

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