

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—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 6002 Class E airspace area designated as a surface area for an airport

* * * * *

ANM OR E2 North Bend, OR [Revised]

North Bend Municipal Airport, OR
(lat. 43°25'02" N, long. 124°14'46" W)
North Bend VORTAC
(lat. 43°24'56" N, long. 124°10'06" W)
Empire, LOM/NDB
(lat. 43°23'41" N, long. 124°18'37" W)

Within a 4.2-mile radius of the North Bend Municipal Airport, and within 1.8 miles each side of the North Bend VORTAC 044° radial extending from the 4.2-mile radius to 5.7 miles northeast of the VORTAC, and within 3.7 miles each side of the North Bend VORTAC 092° radial extending from the 4.2-mile radius to 7.5 miles east of the VORTAC, and within 2.7 miles each side of the 241° bearing from the Empire LOM/NDB extending from the 4.2-mile radius to 6.1 miles southwest of the LOM/NDB.

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Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth

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ANM OR E5 North Bend, OR [Revised]

North Bend VORTAC
(Lat. 43°24'56" N, long. 124°10'06" W)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the North Bend VORTAC from the 142° radial CW to the 352° radial, and within a 14-mile radius of the VORTAC from the 352° radial CW to the 142° radial, and within 2.7 miles north of the North Bend VORTAC 268° radial extending from the 8-mile radius to 11 miles west of the VORTAC, and within 1.8 miles south and 5.7 miles north of the VORTAC 241° radial extending from the 8-mile radius to 14.8 miles southwest; that airspace extending upward from 1,200 feet above the surface within a 19.2-mile radius of the North Bend VORTAC extending clockwise from the west edge of V-27 south of the VORTAC, to the west edge of V-287 north of the VORTAC, and within 2.2 miles southeast and 10.1 miles northwest of the North Bend VORTAC 241° radial, extending from the VORTAC to 22.2 miles southwest.

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Issued in Seattle, Washington, on March 17, 1995.

Richard E. Prang,

*Acting Manager, Air Traffic Division,
Northwest Mountain Region.*

[FR Doc. 95-8507 Filed 4-5-95; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

RIN 0960-AD72

Computing Benefit Amounts, Disposing of Underpayments, Resolving Overpayments, and Payment Restriction

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: We are revising our rules on computation of benefits to define the term "first becomes eligible" as it relates to a pension based on noncovered employment. We are also revising the computation rules to provide that we will consider all government service used by a pension-paying agency when we determine whether an individual first became eligible before 1986 for a pension based on noncovered employment. Further, we are also revising our rule on determining fault regarding overpayments to state that benefit deductions because of net

earnings from self-employment are not applicable after an individual attains age 70. Additionally, we are revising our rules on underpayments to clarify a misleading cross-reference. Finally, we are updating the list of countries to which benefit payments are withheld because of Treasury Department restrictions.

DATES: These regulations are effective April 6, 1995.

FOR FURTHER INFORMATION CONTACT: Jack Schanberger, Legal Assistant, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-8471 for information about these rules. For information on eligibility or claiming benefits, call our national toll-free number 1-800-772-1213.

SUPPLEMENTARY INFORMATION: Section 215(a)(7) of the Social Security Act (the Act) requires us to use a modified formula for computing the primary insurance amount (the basic benefit amount) of an individual's old-age or disability insurance benefit if the individual first becomes eligible after 1985 for such a benefit and for a monthly periodic payment based on noncovered employment. The modified formula applies to individuals who are concurrently entitled to such a monthly periodic payment and to old-age or disability benefits under title II of the Act. It results in a lower primary insurance amount than would have been computed if the monthly periodic payment had not been considered. However, neither the Act nor our regulations at 20 CFR 404.213 define the phrase "first becomes eligible."

In defining "first becomes eligible," we have identified two interpretations which pertain to the date creditable service is acquired. One interpretation is that an individual first becomes eligible when he or she has currently acquired enough service to qualify for a pension. The other interpretation is that an individual first becomes eligible when he or she has acquired enough service to qualify for a pension, regardless of when the service was acquired.

We recently became aware that some individuals have purchased credit for prior service, e.g., military service, which could affect their eligibility date and allow them to become eligible before 1986 for a monthly pension based on noncovered employment. Such an individual would thus be excluded from the modified computation because he or she first became eligible for the monthly pension before 1986. There is no restriction in the Act which precludes using purchased credit to establish eligibility before 1986 for a monthly pension based on noncovered

employment and we see no reason not to consider purchased credits when deciding whether the modified computation applies.

We have adopted the interpretation that we will consider all applicable service used by the pension-paying agency, regardless of when the service was acquired. Under this interpretation, an individual "first become eligible" for a monthly periodic payment for the first month (including a past month) that the individual meets all the requirements for the payment except stopping work or applying for the payment. We are, therefore, amending § 404.213(a) to include the definition of "first becomes eligible" and our policy on applicable service.

Regarding underpayments, the current § 404.503(b), which reflects section 204(d) of the Act, provides that if an individual dies before receiving a title II benefit payment, the underpayment so created is payable to a person or persons in an order of priority as specified in that section. Paragraph (3) of § 404.503(b) provides that if there is no one higher in the order of priority, the underpayment may be paid to the "parent or parents of the deceased individual (as defined in § 404.374) entitled to a monthly benefit on the basis of the same earnings record as was the deceased individual" in the month of death. Under paragraph (6) of § 404.503(b), if there is no one higher in the order of priority, the underpayment may be paid to the "parent or parents of the deceased individual (as defined in § 404.374) who do not qualify under paragraph (b)(3)."

Section 404.374 defines "parent" as the natural, adoptive, or stepparent of an insured person and is based on the statutory requirements for eligibility for benefits as the parent of an insured worker. However, these stringent criteria are not required for purposes of receiving an underpayment. Section 204(d) (3) and (6) of the Act require only that the individual be the parent of the deceased underpaid beneficiary. The cross reference to § 404.374 in § 404.503(b) (3) and (6) results in an unduly restrictive definition of a parent who is eligible for an underpayment. We are, therefore, revising § 404.503(b) (3) and (6) so that for purposes of eligibility for an underpayment, the definition of "parent" in § 404.374 is extended to a parent of any deceased individual who was entitled to social security benefits.

Regarding overpayments, we are amending § 404.510, which lists the situations where an individual may be considered to be "without fault" for accepting an incorrect benefit payment.

Paragraph (l) of that section explains that the overpaid individual may be "without fault" in causing the overpayment if he or she reasonably believed that net earnings from self-employment after attaining age 72 in a taxable year would not be cause for deductions from benefits for months in the year of attaining age 72 that are before the month of attainment. For months after 1982, the age at which social security beneficiaries are no longer subject to an earnings test has been reduced from age 72 to age 70. This reduction from age 72 to 70 is based on section 302 of Pub. L. 95-216 (the Social Security Amendments of 1977) which became effective for months after December 1982, as provided in section 2204 of Pub. L. 97-35 (the Omnibus Budget Reconciliation Act of 1981). We are, therefore, revising § 404.510(l) to change age 72 to age 70 for months after December 1982.

Our final amendment in these regulations is to delete Albania and the German Democratic Republic from the list in § 404.460 of countries to which the Department of the Treasury will not send benefit checks. On November 7, 1991, the Department of the Treasury removed the German Democratic Republic from the Withheld Check List set out in 31 CFR 211.1 by publishing final rules in the **Federal Register** at 56 FR 56931. On September 30, 1992, the Department removed Albania from the list by publishing final rules in the **Federal Register** at 57 FR 44998.

On July 20, 1994, we published proposed rules in the **Federal Register** at 59 FR 37000 with a 60-day comment period. We received no comments on those proposed rules. We are, therefore, publishing the proposed rules essentially unchanged as final rules.

Regulatory Procedures

Executive Order No. 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.

Regulatory Flexibility Act

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

Paperwork Reduction Act

These final rules impose no additional reporting or recordkeeping

requirements subject to Office of Management and Budget clearance.

(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).

List of Subjects in 20 CFR Part 404

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

Dated: February 1, 1995.

Shirley S. Chater,

Commissioner of Social Security.

Approved: March 30, 1995.

Donna E. Shalala,

Secretary of Health and Human Services.

For the reasons set out in the preamble, we are amending subparts C, E, and F of part 404 of 20 CFR chapter III as follows:

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

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

Authority: Secs. 202(a), 205(a), 215, and 1102 of the Social Security Act; 42 U.S.C. 402(a), 405(a), 415, and 1302.

2. Section 404.213 is amended by adding two sentences after the first sentence of paragraph (a)(3) to read as follows:

§ 404.213 Computation where you are eligible for a pension based on your noncovered employment.

(a) * * *

(3) * * *

We consider you to first become eligible for a monthly pension in the first month for which you met all requirements for the pension except that you were working or had not yet applied. In determining whether you are eligible for a pension before 1986, we consider all applicable service used by the pension-paying agency. * * *

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3. The authority citation for subpart E of part 404 continues to read as follows:

Authority: Secs. 202, 203, 204 (a) and (e), 205 (a) and (c), 222(b), 223(e), 224, 227, and 1102 of the Social Security Act; 42 U.S.C. 402, 403, 404 (a) and (e), 405 (a) and (c), 422(b), 423(e), 424, 427, and 1302.

4. Section 404.460 is amended by revising the list of countries in paragraph (c)(3) to read as follows:

§ 404.460 Nonpayment of monthly benefits of aliens outside the United States.

* * * * *

(c) * * *
(3) * * *

Cuba
Democratic Kampuchea (formerly
Cambodia)
North Korea
Vietnam

* * * * *

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

Authority: Secs. 204(a)-(d), 205(a), and 1102 of the Social Security Act; 31 U.S.C. 3720A; 42 U.S.C. 404(a)-(d), 405(a), and 1302.

6. Section 404.503 is amended by revising paragraphs (b)(3) and (b)(6) to read as follows:

§ 404.503 Underpayments.

* * * * *

(b) * * *

(3) The parent or parents of the deceased individual, entitled to a monthly benefit on the basis of the same earnings record as was the deceased individual for the month in which such individual died (if more than one such parent, in equal shares to each such parent). For this purpose, the definition of "parent" in § 404.374 includes the parent(s) of any deceased individual who was entitled to benefits under title II of the Act.

* * * * *

(6) The parent or parents of the deceased individual, who do not qualify under paragraph (b)(3) of this section (if more than one such parent, in equal shares to each such parent). For this purpose, the definition of "parent" in § 404.374 includes the parent(s) of any deceased individual who was entitled to benefits under title II of the Act.

* * * * *

7. Section 404.510 is amended by revising paragraph (l) to read as follows:

§ 404.510 When an individual is "without fault" in a deduction overpayment.

* * * * *

(l) Reasonable belief, with respect to earnings activity for months after December 1982, that net earnings from self-employment after attainment of age 70 (age 72 for months after December 1972 and before January 1983) in the taxable year in which such age was attained would not cause deductions (see § 404.430(a)) with respect to benefits payable for months in that taxable year prior to the attainment of such age.

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[FR Doc. 95-8399 Filed 4-5-95; 8:45 am]
BILLING CODE 4190-29-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-95-1729; FR-3474-F-03]

RIN 2506-AB53

Community Development Block Grant Program Economic Development Guidelines; Final Rule and Guidelines; Technical Amendments

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule and guidelines; technical amendments.

SUMMARY: The Department published in the **Federal Register**, a final rule and guidelines that established guidelines to assist Community Development Block Grant (CDBG) recipients in evaluating and selecting economic development activities for assistance with CDBG funds. The purpose of this document is to make certain clarifying technical amendments to that final rule.

EFFECTIVE DATE: February 6, 1995.

FOR FURTHER INFORMATION CONTACT: James R. Broughman, Director, Office of Block Grant Assistance, Room 7286, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 708-3587; TDD: (202) 708-2565. (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION:

List of Subjects in 24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—education, Grant programs—housing and community development, Guam, Indians, Lead poisoning, Loan programs—housing and community development, Low and moderate income housing, New communities, Northern Mariana Islands, Pacific Islands Trust Territory, Pockets of poverty, Puerto Rico, Reporting and recordkeeping requirements, Small cities, Student aid, Virgin Islands.

Accordingly, 24 CFR part 570 is amended as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The authority citation for 24 CFR part 570 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5300-5320.

§ 570.200 [Amended]

2. In § 570.200, paragraph (f)(2) is amended by removing the word "subrecipients", and by adding in its place the word "entities".

3. Section 570.208 is amended by revising paragraph (a)(1)(v), to read as follows:

§ 570.208 Criteria for national objectives.

(a) * * *

(1) * * *

(v) Activities meeting the requirements of paragraph (d)(5)(i) of this section may be considered to qualify under this paragraph, provided that the area covered by the strategy is either a Federally-designated Empowerment Zone or Enterprise Community or primarily residential and contains a percentage of low- and moderate-income residents that is no less than the percentage computed by HUD pursuant to paragraph (a)(1)(ii) of this section or 70 percent, whichever is less, but in no event less than 51 percent. Activities meeting the requirements of paragraph (d)(6)(i) of this section may also be considered to qualify under paragraph (a)(1) of this section.

* * * * *

§ 570.208 [Amended]

4. In § 570.208, paragraph (a)(4)(vi)(B) is amended by removing the phrase "a subrecipient", and by adding in its place the phrase "an entity".

5. In § 570.208, paragraph (a)(4)(vi)(F)(2) is amended by removing the cross-reference to "paragraph (a)(4)(v)(C)(1) of this section", and by adding in its place the cross-reference to "paragraph (a)(4)(vi)(F)(1) of this section".

§ 570.209 [Amended]

6. In § 570.209, paragraph (b) introductory text is amended by removing the cross-reference to "§ 570.208(a)(4)(vi)(D)(2)", and by adding in its place the cross-reference to "§ 570.208(a)(4)(vi)(F)(2)".

§ 570.483 [Amended]

7. In § 570.483, paragraph (b)(4)(vi)(B) is amended by removing the phrase "a subrecipient", and by adding in its place the phrase "an entity".

8. In § 570.483, paragraph (b)(4)(vi)(F)(2) is amended by removing the cross-reference to "paragraph (b)(4)(iii)(C)(1) of this section", and by adding in its place the cross-reference to "paragraph (b)(4)(vi)(F)(1) of this section".

9. Section 570.500 is amended by:

a. Amending paragraph (a)(4)(ii) by removing the period from the end of the