

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(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 10034; 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 not affect air traffic procedures and air navigation, it is certified that this proposal rule would 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).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 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 the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

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

* * * * *

AWP AZ E5 Phoenix Sky Harbor International Airport, AZ [Revised]

Phoenix Sky Harbor International Airport, Phoenix, AZ

(Lat. 33°26'10" N, long. 112°00'34" W)

Williams Gateway Airport, AZ

(Lat. 33°18'28" N, long. 111°39'19" W)

Luke AFB, AZ

(Lat. 33°32'06" N, long. 111°22'59" W)

That airspace extending upward from 700 feet above the surface within a 17.4-mile radius of Luke AFB and within a 17.4-mile radius of Williams Gateway Airport and within 2 parallel tangent lines connecting the two 17.4-mile radius circles, and that airspace northwest of Phoenix Sky Harbor

International Airport bounded by a line beginning at lat. 33°59'00" N, long. 112°38'03" W; to lat. 33°49'24" N, long. 112°25'34" W, thence counterclockwise via the 17.4-mile radius of Luke AFB to lat. 33°42'00" N, long. 112°40'00" W; to lat. 33°44'00" N, long. 112°45'03" W; to lat. 33°55'00" N, long. 112°45'03" W, to the point of beginning. That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 34°10'00" N, long. 112°39'03" W; to lat. 34°10'00" N, long. 111°30'03" W; to lat. 34°00'00" N, long. 110°52'02" W; to lat. 32°33'00" N, long. 110°52'02" W; to lat. 32°33'00" N, long. 112°00'02" W; to lat. 32°51'00" N, long. 112°37'03" W; to lat. 32°51'00" N, long. 113°00'03" W; to lat. 33°19'00" N, long. 113°00'03" W; to lat. 33°19'00" N, long. 113°10'03" W; to lat. 34°00'00" N, long. 113°10'03" W; to lat. 34°00'00" N, long. 112°52'03" W, thence to the point of beginning. That airspace extending upward from 5,500 feet MSL west of Phoenix Sky Harbor International Airport bounded on the north by the south edge of V-16, on the east by the west boundary of the 1,200 foot portion of the Class E airspace area; on the south by the north edge of V-66 and on the west by long. 114°00'03" W, excluding that airspace within Restricted Areas R-2308A, R-2308B, R-2308C, and R-2307. That airspace extending upward from 7,000 MSL bounded on the north by lat. 34°00'00" N, on the east by long. 113°10'03" W; on the south by the north edge of V-16 and on the west by long. 114°00'03" W. That airspace extending upward from 9,500 feet MSL bounded on the north by the south edge of V-12, on the east by the west edge of V-327, on the south and southeast by the north and northwest boundary of the 1,200 foot portion of the Class E airspace area, and on the southwest by a line extending from lat. 34°08'48" N, long. 112°40'37" W, to the point of intersection on long. 113°10'03" W, and on the south edge of V-12. That airspace extending upward from 10,500 feet MSL bounded on the north by the south edge of V-12/264, on the southeast by the northwest edge of V-567 and on the west by the east edge of V-327. That airspace extending upward from 10,500 feet MSL bounded on the northwest by the southeast edge of V-567, on the southeast by the northwest edge of V-95 and on the south by the north boundary of the 1,200 foot portion of the Class E airspace area.

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Issued in Los Angeles, California, on November 27, 1995.

Harvey R. Riebel,

*Acting Manager, Air Traffic Division,
Western-Pacific Region.*

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SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Regulation No. 4]

RIN 0960-AE21

When You Are A Full-Time Elementary Or Secondary School Student

AGENCY: Social Security Administration.

ACTION: Proposed rule.

SUMMARY: We propose to revise our rule on full-time elementary or secondary school students to include students enrolled in home schooling or independent study programs authorized by State or local law, e.g., political subdivision, tribal government, or the District of Columbia. The current rule covers only students in traditional institutional educational settings; however, many States (or other jurisdictions) provide for home schooling and independent study programs considered equivalent to traditional schools. We also propose to clearly show that nonpayment provisions apply to certain prisoners and certain other inmates of publicly funded institutions who otherwise would meet student benefit requirements. In addition, we propose to remove outdated rules on student benefits relating to months before August 1982.

DATES: To be sure that your comments are considered, we must receive them no later than February 5, 1996.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, MD 21235, sent by telefax to (410) 966-2830, sent by E-mail to "regulations@ssa.gov", or delivered to the Division of Regulations and Rulings, Social Security Administration, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8:00 A.M. and 4:30 P.M. on regular business days. Comments may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Daniel T. Bridgewater, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-3298 for information about these rules. For information on eligibility or claiming benefits, call our national toll-free number, 1-800-772-1213.

SUPPLEMENTARY INFORMATION**Background**

The Social Security Amendments of 1965, Public Law 89-97, section 306, defined a full-time student as "an individual who is in full-time attendance as a student at an educational institution." An "educational institution" was defined as "(i) a school or college or university operated or directly supported by the United States, or by any State or local government or political subdivision thereof, or (ii) a school or college or university which has been approved by a State or accredited by a State-recognized or nationally-recognized accrediting agency or body, or (iii) a non-accredited school or college or university whose credits are accepted, on transfer, by not less than three institutions which are so accredited * * *." This definition of an educational institution was chosen by Congress, as explained in the Senate report, "to establish that the institution the child attends is a bona fide school." (See S. Rep. No. 404, 89th Cong., 1st Sess., reprinted in 1965 U.S. Code Cong. & Admin. News 1943, 2036-37.)

The Senate report also stated: "The committee believes that a child over age 18 who is attending school full-time is dependent just as a child under 18 or a disabled older child is dependent, and that it is not realistic to stop such a child's benefit at age 18." Ibid. We understand this to mean that the committee believed that full-time students attending class are less likely to be able to support themselves through employment than are part-time or correspondence students.

The Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, section 2210, replaced the term "educational institution" and its definition with the requirement that the student be in full-time attendance at an "elementary or secondary school," which is defined as a "school which provides elementary or secondary education, respectively, as determined under the law of the State or other jurisdiction in which it is located." (See section 202(d)(7)(C)(i) of the Social Security Act (the Act) as amended.) The purpose of this amendment was to eliminate child's insurance benefits in the case of children age 18 or older who attend postsecondary schools. Section 2210 also eliminated child's insurance benefits for children in elementary or secondary school after they attained age 19. (See S. Rep. No. 139, 97th Cong., 1st Sess. 427, reprinted in 1981 U.S. Code Cong. & Admin. News 396, 693.)

Present Policy

Child's insurance benefits under sections 202(d)(6) and (7) of the Act usually terminate when the child attains age 18. However, there is an exception that allows for continuation of entitlement to child's benefits for persons age 18 until attainment of age 19 who are full-time elementary or secondary school students.

Section 202(d)(7)(A) of the Act defines a full-time elementary or secondary school student as "an individual who is in full-time attendance as a student at an elementary or secondary school, as determined by the Commissioner (in accordance with regulations prescribed by him) in the light of the standards and practices of the schools involved * * *."

Section 404.367 of our current regulations states, in pertinent part:

* * * You are a full-time elementary or secondary school student if you meet all the following conditions:

(a) You attend a school which provides elementary or secondary education, respectively, as determined under the law of the State or other jurisdiction in which it is located;

(b) You are in full-time attendance in a day or evening noncorrespondence course of at least 13 weeks duration and are carrying a subject load which is considered full-time for day students under the institution's standards and practices. Additionally, your scheduled attendance must be at the rate of at least 20 hours per week unless we find that:

(1) The school attended does not schedule at least 20 hours per week and going to that particular school is your only reasonable alternative; or

(2) Your medical condition prevents you from having scheduled attendance of at least 20 hours per week. To prove that your medical condition prevents you from scheduling 20 hours per week, we may request that you provide appropriate medical evidence or a statement from the school.

Proposed Policy

Current regulations do not provide guidance on alternative education programs covered under the laws of the State (or other jurisdiction) in which a student resides. Before the development of such programs, our policy had been in keeping with the traditional definition of educational institutions. Such traditional institutional-type schools include public, private, and religious schools. Except for the two specific exceptions noted in the regulations, we also consistently have required that the student be scheduled to attend school for at least 20 hours per week to be considered a full-time student.

Because most States (or other jurisdictions) have begun providing for

education based on alternative education methods, we evaluated cases involving home schooling or independent study programs on an individual basis. This evaluation has provided sufficient information to formulate these proposed regulations.

Many States or other jurisdictions have laws recognizing home schooling. Home schooling is an educational program in which the student is generally taught within the home by a parent/teacher. The State or other jurisdiction specifies the requirements that must be met and the procedures that must be followed in these situations. There must be a parent or other home school teacher participating in the home school instruction. This participation may be in the form of actual instruction, answering questions, administering tests, keeping attendance records, etc. The student must be carrying a course load that is considered full-time using the same standards and practices used for full-time day students in the traditional setting, as determined under the law of the State or other jurisdiction in which the student resides.

The child's home schooling teacher must submit evidence that legal requirements for home schooling are met. Depending on these requirements, this evidence might include a copy of the certificate of intent that is filed with the local school or school district, documentation that State-mandated tests were taken, a list of the courses being taught, and a copy of the attendance log or chart.

Also, some States or other jurisdictions authorize the governing board of a school district or a county office of education to offer independent study to meet the educational needs of pupils in accordance with certain requirements. An independent study course could (but need not) include instruction in the student's home or elsewhere outside the classroom. The study program is conducted in accordance with written policies and rules. It is coordinated, evaluated, and under the supervision of an employee of the school district or county office of education who has been certified to act as a home teacher. Independent study programs which involve instruction and supervision by a teacher employed by the school (or local school district) include written agreements for each independent study student specifying, among other things, the duration of the agreement and a statement of the number of course credits to be earned by the pupil upon completion. The effect of the written agreement is to extend the educational setting beyond the

traditional classroom. It is a situation similar to those students who are in school-approved work-study programs that extend the educational setting.

We therefore propose to revise § 404.367 to include students enrolled in home schooling or independent study programs authorized by State (or other jurisdiction) laws. The student must be carrying a course load considered to be full-time under the standards and practices used for day students who are in full-time attendance at traditional educational institutions. Students in these types of situations include a wide range of individuals. For example, home schooling students may be in that situation for religious reasons or because the parents do not agree with the local school curriculum.

Students in independent study programs may include those individuals who cannot take advantage of the traditional school setting, such as hard-to-keep-in-school students (unable to adjust or delinquents), single mothers, or expectant mothers. All students—those in traditional programs and those in alternative programs—who work are subject to the annual earnings test.

A home schooling program must meet the requirements set forth by the State (or other jurisdiction). An independent study program organized in accordance with the State (or other jurisdiction) requirements must be coordinated, evaluated and supervised by an employee of the school district or county office of education and must comply with the policies of the school district or county office of education. To be entitled to child's insurance benefits as a student, an individual enrolled in either type of program must meet both the Federal and the State (or other jurisdiction) full-time attendance (FTA) requirements.

When determining FTA, the home schooling teacher will be the certifying school official for FTA purposes. In independent study situations, the school teacher/official supervising the performance of the student under the written agreement between the school and the student will be the certifying official for FTA.

When determining the number of hours spent in school attendance for an approved independent study program, we will combine the number of agreed upon hours spent in independent study with the number of hours in actual school attendance. The course load must be equivalent to that of a student in the school's full-time day program.

We will continue to exclude from eligibility those individuals who are enrolled solely in correspondence courses. We do not believe that such

courses satisfy the definition of an elementary or secondary school in the Act, and usually they would not meet State (or other jurisdiction) requirements.

We also propose to revise § 404.367 to clearly show that section 202(x) of the Act, regarding nonpayment of benefits to certain prisoners and certain other inmates of publicly funded institutions, applies to those individuals who otherwise meet student benefit requirements. Section 202(x) is applicable to those who otherwise would qualify for benefits under section 202(d)(7)(A) of the Act.

Further, we propose to remove § 404.369 since it applies only to child's benefits for full-time students for months before August 1982. This section has not been applicable for over 10 years and there is no longer a need to retain it. Sections that refer to § 404.369 (i.e., §§ 404.350–404.353) will be revised to remove such references.

Electronic Version

The electronic file of this document is available on the Federal Bulletin Board (FBB) at 9:00 A.M. on the date of publication in the Federal Register. To download the file, modem dial (202) 512-1387. The FBB instructions will explain how to download the file and the fee. This file is in WordPerfect and will remain on the FBB during the comment period.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that this proposed rule does not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, it was not subject to OMB review.

Regulatory Flexibility Act

We certify that this proposed rule will not have a significant economic impact on a substantial number of small entities since it affects only individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96-354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

This proposed rule imposes no additional reporting or recordkeeping requirements subject to Office of Management and Budget 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)

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: November 27, 1995.

Shirley S. Chater,

Commissioner of Social Security.

For the reasons set out in the preamble, subpart D of part 404 of chapter III of title 20 of the Code of Federal Regulations is proposed to be amended as follows:

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

Subpart D—[Amended]

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

Authority: Secs. 202, 203 (a) and (b), 205(a), 216, 223, 225, 228(a)–(e), and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403 (a) and (b), 405(a), 416, 423, 425, 428(a)–(e), and 902(a)(5)).

2. Section 404.350 is amended by revising paragraph (a)(5) to read as follows:

§ 404.350 Who is entitled to child's benefits.

(a) * * *
(5) You are under age 18; you are 18 years old or older and have a disability that began before you became 22 years old; or you are 18 years or older and qualify for benefits as a full-time student as described in § 404.367.

* * * * *

3. Section 404.351 is amended by revising paragraph (a) to read as follows:

§ 404.351 Who may be reentitled to child's benefits.

* * * * *

(a) The first month in which you qualify as a full-time student. (See § 404.367.)

* * * * *

4. Section 404.352 is amended by revising the fourth sentence of paragraph (b)(1) to read as follows:

§ 404.352 When child's benefits begin and end.

* * * * *

(b) * * *

(1) * * * If you become 18 years old and you qualify as a full-time student who is not disabled, your entitlement ends with the last month you are a full-time student or, if earlier, the month before the month you become age 19.

* * *

* * * * *

5. Section 404.353 is amended by revising the second sentence of paragraph (a) to read as follows:

§ 404.353 Child's benefit amounts.

(a) * * * The amount of your monthly benefit may change as explained in § 404.304.
* * * * *

6. Section 404.367 is amended by revising the first sentence of the introductory text; revising paragraphs (a) and (b); redesignating paragraphs (c), (d), and (e) as paragraphs (d), (e), and (f), respectively; adding paragraph (c); and, revising paragraph (f) to read as follows:

§ 404.367 When you are a "full-time elementary or secondary school student".

You may be eligible for child's benefits if you are a full-time elementary or secondary school student. * * *

(a) You attend a school which provides elementary or secondary education as determined under the law of the State or other jurisdiction in which it is located. Participation in the following programs also meets the requirements of this paragraph:

(1) You are instructed in elementary or secondary education at home in accordance with a home school law of the State or other jurisdiction in which you reside; or

(2) You are in an independent study elementary or secondary education program in accordance with the law of the State or other jurisdiction in which you reside which is administered by the local school or school district/ jurisdiction;

(b) You are in full-time attendance in a day or evening noncorrespondence course of at least 13 weeks duration and you are carrying a subject load which is considered full-time for day students under the institution's standards and practices. If you are in a home schooling program as described in paragraph (a)(1) of this section, you must be carrying a subject load which is considered full-time for day students under standards and practices set by the State or other jurisdiction in which you reside;

(c) To be considered in full-time attendance, your scheduled attendance must be at the rate of at least 20 hours per week unless one of the exceptions in paragraph (c)(1) or (c)(2) of this section applies. If you are in an independent study program as described in paragraph (a)(2) of this section, your number of hours spent in school attendance are determined by combining the number of hours of attendance at a school facility with the agreed upon number of hours spent in independent study. You may still be considered in full-time attendance if

your scheduled rate of attendance is below 20 hours per week if we find that:

(1) The school attended does not schedule at least 20 hours per week and going to that particular school is your only reasonable alternative; or

(2) Your medical condition prevents you from having scheduled attendance of at least 20 hours per week. To prove that your medical condition prevents you from scheduling 20 hours per week, we may request that you provide appropriate medical evidence or a statement from the school;
* * * * *

(f) You are not subject to the provisions in § 404.468 for nonpayment of benefits to certain prisoners and certain other inmates of publicly funded institutions.

§ 404.3691 [Removed]

7. Section 404.369 is removed.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 756

[SPATS No. HO-003-FOR]

Hopi Tribe Abandoned Mine Land Reclamation (AMLR) Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Hopi Tribe AMLR plan (hereinafter, the "Hopi Tribe plan") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions of and additions to the Hopi Tribe plan pertaining to the purpose of the plan; eligible lands and water subsequent to certification; coordination with other programs; land acquisition, management, and disposal; reclamation on private land and rights of entry; public participation; organization of the Hopi Tribe; personnel staffing policies; purchasing policies, procurement procedures, and accounting systems; economic conditions on the Hopi Reservation; a description of flora and fauna at abandoned mine sites; the Hopi Tribe's authority to administer its plan, as amended in the absence of a specific

statute; changing the name of the designated agency; and affirmation that the manual for purchasing policies and procedures manual is in accordance with the Office of Management and Budget's (OMB) Common Rule. Additionally, the Hopi Tribe is proposing numerous editorial and recodification changes. The amendment is intended to revise the Hopi Tribe plan to meet the requirements of and incorporate the additional flexibility afforded by the revised Federal regulations and SMCRA, as amended, and improve operational efficiency.

DATES: Written comments must be received by 4:00 p.m. m.s.t., January 8, 1996. If requested, a public hearing on the proposed amendment will be held on January 2, 1996. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.s.t., December 22, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Donna J. Griffin at the address listed below.

Copies of the Hopi Tribe plan, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.

Donna J. Griffin, Acting Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette Avenue, NW., Suite 1200, Albuquerque, New Mexico 87102

Norman Honie, Abandoned Mine Land Program Director, Office of Mining and Minerals, Department of Natural Resources, The Hopi Tribe, P.O. Box 123, Kykotsmovi, AZ 86039

FOR FURTHER INFORMATION CONTACT: Donna J. Griffin, Telephone: (505) 248-5070.

SUPPLEMENTARY INFORMATION:

I. Background on the Hopi Tribe Plan

On June 28, 1988, the Secretary of the Interior approved the Hopi Tribe plan. General background information on the Hopi Tribe plan, including the Secretary's findings and the disposition of comments, can be found in the June 28, 1988, Federal Register (53 FR 24262). Subsequent actions concerning the Hopi Tribe's plan and plan amendments can be found at 30 CFR 756.14(a).