

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9L, *Airspace Designations and Reporting Points*, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

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

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AAL AK E5 King Cove, AK [New]

King Cove Airport, AK
(lat. 55°06'59" N., long. 162°15'58" W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the King Cove Airport and that airspace extending 1.2 miles either side of the 103 bearing from King Cove Airport from the 6.5-mile radius out to 8.75 miles excluding that airspace within the Cold Bay Class E airspace area.

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Issued in Anchorage, AK, on March 31, 2004.

Judith G. Heckl,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 04-8503 Filed 4-14-04; 8:45 am]

BILLING CODE 4910-13-P

SOCIAL SECURITY ADMINISTRATION**20 CFR Part 404**

RIN 0960-AF14

Title II Cost of Living Increases in Primary Insurance Amounts

AGENCY: Social Security Administration.

ACTION: Final rules.

SUMMARY: We are revising our rules dealing with automatic cost-of-living increases to primary insurance amounts under title II of the Social Security Act (the Act). The revisions remove the restriction in our previous rules that allowed cost-of-living increases based on rises in the Consumer Price Index (CPI) or the Average Wage Index (AWI) only if either the CPI or AWI increased by 3 percent or more during the prescribed measuring period. The 3-percent restriction was eliminated by legislation enacted in 1986. We are also adding clarifying language that, when rounding an increase in the CPI or AWI, we round five one-hundredths and above to the next higher tenth of a percent.

EFFECTIVE DATES: These regulations are effective April 15, 2004.

ADDRESSES: Electronic Version: The electronic file of this document is

available on the date of publication in the **Federal Register** at <http://www.gpoaccess.gov/fr/index.html>. It is also available on the Internet site for SSA (*i.e.*, Social Security Online) at <http://policy.ssa.gov/pnpublic.nsf/LawsRegs>.

FOR FURTHER INFORMATION CONTACT:

Regarding this **Federal Register** document—Robert J. Augustine, Social Insurance Specialist, Office of Regulations, Social Security Administration, Room 100, Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-0020 or TTY (410) 966-5609. For information on eligibility or filing for benefits: Call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778 or visit our Internet Web site, Social Security Online, at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION:**Background**

The primary insurance amount is the basic figure we use to find the monthly Social Security benefit amount we pay to workers and their family members. Under section 215(i) of the Act, primary insurance amounts are automatically increased each year if there has been an increase in the CPI or AWI over the specified measuring period. Under the law in effect prior to the enactment of Public Law 99-509 on October 21, 1986, we could increase primary insurance amounts only if either the CPI or AWI rose by 3.0 percent or more over the specified measuring period. Section 9001 of Public Law 99-509 removed the 3-percent restriction from the law. However, we have not previously revised our regulations to reflect this legislative change. This revision conforms our rules on cost-of-living increases to current law. This rule also provides clarification on how we round increases in the CPI or AWI to the nearest tenth when the calculated increase is exactly halfway between tenths of one percent.

Explanation of Changes

We have revised §§ 404.273 through 404.275 and § 404.278 by removing all references to the 3-percent restriction on cost-of-living increases.

We have also added a new paragraph (c) to § 404.275 to clarify that, when rounding the percentage increase in the cost of living to the nearest tenth of a percent, we round five one-hundredths and above to the next higher tenth of a percent and otherwise round down to the next lower tenth of a percent. For example, we round an increase of 3.15 percent up to a 3.2 percent increase. We

have redesignated current paragraph (c) as paragraph (d).

Regulatory Procedures

Pursuant to section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5), as amended by section 102 of Public Law 103-296, SSA follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest.

In the case of these final rules, we have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures in this case. Good cause exists because these regulations merely conform our rules on cost-of-living increases to current law and reflect our current interpretation on rounding. These regulations contain no substantive changes of interpretation. Therefore, opportunity for prior comment is unnecessary, and we are issuing these regulations as final rules.

In addition, we find good cause for dispensing with the 30-day delay in the effective date of a substantive rule, provided for by 5 U.S.C. 553(d). As explained above, we are not making any substantive changes in the cost-of-living increase provisions. However, without these changes, our rules will conflict with current law and may mislead the public. In addition, we are codifying our current interpretation on rounding into our regulations. Therefore, we find that it is in the public interest to make these rules effective upon publication.

Executive Order 12866, as Amended by Executive Order 13258

We have consulted with the Office of Management and Budget (OMB) and 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 final 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. Therefore, a regulatory flexibility analysis as provided in the

Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These final rules impose no additional reporting or recordkeeping requirements requiring 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)

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: March 30, 2004.

Jo Anne B. Barnhart,

Commissioner of Social Security.

■ For the reasons set forth in the preamble, we are amending subpart C of part 404 of Title 20 of the Code of Federal Regulations as follows:

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

Subpart C—[Amended]

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

Authority: Secs. 202(a), 205(a), 215, and 702(a)(5) of the Social Security Act (42 U.S.C. 402(a), 405(a), 415, and 902(a)(5)).

■ 2. Sections 404.273, 404.274 and 404.275 are revised to read as follows:

§ 404.273 When are automatic cost-of-living increases effective?

We make automatic cost-of-living increases if the applicable index, either the CPI or the AWI, rises over a specified measuring period (*see* the rules on measuring periods in § 404.274). If the cost-of-living increase is to be based on an increase in the CPI, the increase is effective in December of the year in which the measuring period ends. If the increase is to be based on an increase in the AWI, the increase is effective in December of the year after the year in which the measuring period ends.

§ 404.274 What are the measuring periods we use to calculate cost-of-living increases?

(a) *General.* Depending on the OASDI fund ratio, we measure the rise in one index or in both indexes during the applicable measuring period (described in paragraphs (b) and (c) of this section) to determine whether there will be an automatic cost-of-living increase and if so, its amount.

(b) *Measuring period based on the CPI—(1) When the period begins.* The measuring period we use for finding the amount of the CPI increase begins with the later of—

(i) Any calendar quarter in which an *ad hoc* benefit increase is effective; or

(ii) The third calendar quarter of any year in which the last automatic increase became effective.

(2) *When the period ends.* The measuring period ends with the third calendar quarter of the following year. If this measuring period ends in a year after the year in which an *ad hoc* increase was enacted or took effect, there can be no cost-of-living increase at that time. We will extend the measuring period to the third calendar quarter of the next year.

(c) *Measuring period based on the AWI—(1) When the period begins.* The measuring period we use for finding the amount of the AWI increase begins with the later of—

(i) The calendar year before the year in which an *ad hoc* benefit increase is effective; or

(ii) The calendar year before the year in which the last automatic increase became effective.

(2) *When the period ends.* The measuring period ends with the following year. If this measuring period ends in a year in which an *ad hoc* increase was enacted or took effect, there can be no cost-of-living increase at that time. We will extend the measuring period to the next calendar year.

§ 404.275 How is an automatic cost-of-living increase calculated?

(a) *Increase based on the CPI.* We compute the average of the CPI for the quarters that begin and end the measuring period by adding the three monthly CPI figures (which are published to one decimal place), dividing the total by 3, and rounding the result to the nearest 0.1. If the average for the ending quarter is higher than the average for the beginning quarter, we divide the average for the ending quarter by the average for the beginning quarter to determine the percentage increase in the CPI over the measuring period.

(b) *Increase based on the AWI.* If the AWI for the year that ends the measuring period is higher than the AWI for the year which begins the measuring period and all the other conditions for an AWI-based increase are met, we divide the higher AWI by the lower AWI to determine the percentage increase in the AWI.

(c) *Rounding rules.* We round the increase from the applicable paragraph (a) or (b) of this section to the nearest 0.1 percent by rounding 0.05 percent

and above to the next higher 0.1 percent and otherwise rounding to the next lower 0.1 percent. For example, if the applicable index is the CPI and the increase in the CPI is 3.15 percent, we round the increase to 3.2 percent. We then apply this percentage increase to the amounts described in § 404.271 and round the resulting dollar amounts to the next lower multiple of \$0.10 (if not already a multiple of \$0.10).

(d) *Additional increase.* *See* § 404.278 for the additional increase that is possible.

§ 404.278 [Amended]

■ 3. In § 404.278, remove the parenthetical phrase at the end of paragraph (a)(2).

[FR Doc. 04–8573 Filed 4–14–04; 8:45 am]

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in May 2004. Interest assumptions are also published on the PBGC's Web site (<http://www.pbgc.gov>).

EFFECTIVE DATE: May 1, 2004.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, (202) 326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to (202) 326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income