

*Regulatory Flexibility Act*

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Chief Counsel for Regulation at the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that the proposed rule would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published in the proposed rule and is not repeated here. No comments were received regarding the economic impact of this rule on small entities. As a result, a final regulatory flexibility analysis is not required and has not been prepared.

*Paperwork Reduction Act*

This proposed rulemaking does not contain revised collection of information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. Collection activities are currently approved by the Office of Management and Budget under control numbers 0625-0040 and 0625-0134.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information unless it displays a currently valid OMB Control Number.

*E.O. 12866*

It has been determined that the rulemaking is not significant for purposes of Executive Order 12866.

**List of Subjects in 15 CFR Part 303**

Administrative practice and procedure, American Samoa, Customs duties and inspection, Guam, Imports, Marketing quotas, Northern Mariana Islands, Reporting and recordkeeping requirements, Virgin Islands, Watches and jewelry.

■ For reasons set forth above, the Departments amend 15 CFR Part 303 as follows:

**PART 303—WATCHES, WATCH MOVEMENTS AND JEWELRY PROGRAMS**

■ 1. The authority citation for 15 CFR Part 303 reads as follows:

**Authority:** Pub. L. 97-446, 96 Stat. 2331 (19 U.S.C. 1202, note); Pub. L. 103-465, 108 Stat. 4991; Pub. L. 94-241, 90 Stat. 263 (48 U.S.C. 1681, note); Pub. L. 106-36, 113 Stat. 167.

**§ 303.14 [Amended]**

■ 2. Section 303.14 is amended by removing “\$500” from the first sentence

of paragraph (b)(3) and adding “\$800” in its place.

**James J. Jochum,**

*Assistant Secretary for Import Administration, Department of Commerce.*

**David B. Cohen,**

*Deputy Assistant Secretary for Insular Affairs, Department of the Interior.*

[FR Doc. 04-19139 Filed 8-19-04; 8:45 am]

**BILLING CODE 3510-DS-P; 4310-93-P**

**SOCIAL SECURITY ADMINISTRATION****20 CFR Part 404**

[Regulation No. 4]

RIN 0960-AG01

**Federal Old-Age, Survivors and Disability Insurance; Coverage of Residents in the Commonwealth of the Northern Mariana Islands (CNMI); Coverage of Ministers, Members of the Clergy and Christian Science Practitioners**

**AGENCY:** Social Security Administration.

**ACTION:** Final rule.

**SUMMARY:** We are revising several sections of our regulations to reflect that, for purposes of the title II benefit program (title II of the Social Security Act), we consider the Commonwealth of the Northern Mariana Islands (CNMI) to be a part of the United States. The revisions take into account the status of the CNMI under current law and explain the coverage rules for work performed in the CNMI. The revisions also explain that the alien nonpayment provisions, which generally place limits on the payment of title II benefits to aliens (*i.e.* non-United States citizens or nationals) who are outside the United States, do not apply to aliens in the CNMI. We are also revising our title II rules on coverage for ministers, members of religious orders, or Christian Science practitioners, to reflect a provision in the Ticket to Work and Work Incentives Improvement Act of 1999 that allows a duly ordained, commissioned or licensed minister, a member of a religious order, or a Christian Science practitioner who previously opted not to be covered under Social Security, a two-year window in which to make an irrevocable election to be covered.

**DATES:** Effective Date: These regulations are effective on September 20, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Robert J. Augustine, Social Insurance Specialist, Office of Regulations, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard,

Baltimore, MD 21235-6401, (410) 965-0020 or TTY (410) 966-5609, for information about this notice. For information on eligibility or claiming 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>.

**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>.

**SUPPLEMENTARY INFORMATION:****A. CNMI Changes**

Under Public Law Number 94-241 enacted on March 24, 1976, and codified at 48 U.S.C. 1801, section 502(a) of the *Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America* (the *Covenant*) provides that certain laws of the United States will apply to the CNMI. The laws include, under section 502(a)(1) of the *Covenant*, section 228 of title II of the Social Security Act (the *Act*), and title XVI of the *Act*. The laws also include “those laws” not specifically described in section 502(a)(1) “which are applicable to Guam and which are of general application to the several States.” Under section 502(a)(2) of the *Covenant*, such laws apply to the CNMI “as they are applicable to the several States.” Similarly, section 606 of the *Covenant* applies the tax and benefit provisions of the United States Social Security System to the CNMI, as they apply to Guam. Guam is considered part of the United States for purposes of title II of the Social Security Act. *See* 42 U.S.C. 410(i).

While we previously revised our regulations to reflect that the CNMI is considered to be a part of the United States for purposes of the transitional insured provision for special age-72 benefits in section 228 of the *Act* (*see* 20 CFR 404.381) and for purposes of the SSI program (*see* 20 CFR 416.215), we have never previously revised our regulations dealing with entitlement to retirement, survivors, and disability insurance benefits under title II to reflect the treatment of the CNMI under the *Covenant*. We are, therefore, revising the following sections of our regulations to reflect the extension of the title II program to the CNMI.

*Section 404.2*

We are revising paragraphs (c)(5) and (c)(6) of section 404.2 of our regulations to include the CNMI in our definition of both "State" and the "United States," for purposes of administering title II of the Social Security Act. This reflects the full application of title II of the Social Security Act to the CNMI beginning January 1, 1987. See Presidential Proclamation No. 5564 (51 FR 40399 (Nov. 3, 1986)); see also Presidential Proclamation No. 4534 (42 FR 56593 (Oct. 27, 1977)).

*Section 404.460(a)(1)*

Section 404.460(a)(1) of our regulations describes the scope of the alien nonpayment provision of the Act, which limits the payment of Social Security benefits to aliens outside the United States. We are revising the definition of "outside the United States" in this section to reflect that we consider the CNMI to be a part of the United States for purposes of this section. This change is necessary to reflect that we will not apply the alien nonpayment provision to aliens residing in the CNMI, just as it is not applied to aliens residing in Guam.

*Section 404.1004*

Section 404.1004 of our regulations describes what work is covered as employment and defines "State" and "United States" under title II of the Social Security Act (the Act). Since, under the Covenant, we treat work in the CNMI the same as we treat work in Guam, we are revising paragraphs (b)(4), (b)(8) and (b)(9) of this section to include the CNMI in the definition of "State" and "United States" for title II purposes of the Act.

*Section 404.1020*

Section 404.1020 of our regulations describes the coverage of work for States and their political subdivisions and instrumentalities. Since, under the Covenant, we treat work in the CNMI the same as we treat work in Guam, we are revising § 404.1020(a)(3) of our regulations to include a reference to the CNMI directly after the reference to Guam.

*Section 404.1022*

Section 404.1022 of our regulations describes the coverage of employment for workers in American Samoa or Guam. Since, under the Covenant, we treat work in the CNMI the same as we treat work in Guam, we are revising paragraphs (a) and (c) of this section to reflect that work performed for a private employer in the CNMI is covered employment and that work performed

for the government of the CNMI is generally excluded from covered employment.

*Section 404.1093*

Section 404.1093 of our regulations provides that, in using the exclusions from gross income provided under section 931 of the Internal Revenue Code (the Code), 26 U.S.C. 931, (relating to income from sources within possessions of the United States) and section 932 of the Code, 26 U.S.C. 932, (regarding coordination of U.S. and Virgin Islands taxes) for purposes of figuring your net earnings from self-employment, the term "possession of the United States," as used in our regulations at 20 CFR 404.1081(a)(4)(iv), does not include the Virgin Islands, Guam or American Samoa. In describing areas affected by its exclusion from gross income, section 931(c) of the Code, 26 U.S.C. 931(c), defines the term "specified possession" as Guam, American Samoa and the CNMI. Therefore, we are revising § 404.1093 to include the CNMI.

*Section 404.1096*

Section 404.1096(d) of our regulations provides that a nonresident alien has self-employment income only if coverage is provided under a totalization agreement, but explains that residents of the Commonwealth of Puerto Rico, the Virgin Islands, Guam or American Samoa, are not considered to be nonresident aliens. Therefore, we are revising this section to reflect that residents of the CNMI are not considered to be nonresident aliens.

*Section 404.1200*

Section 404.1200 describes coverage for State and local government employees under section 218 of the Act. Mandatory Social Security and Medicare coverage is extended to certain services performed after July 1, 1991, by individuals who are employees of a State (other than the District of Columbia, Guam, or American Samoa). Since the CNMI is treated like Guam under the terms of the Covenant, we are revising paragraph (b) of this section to add the Commonwealth of the Northern Mariana Islands after Guam.

*Section 404.1202*

Under title II of the Act, section 210(h) defines the term "State" to include "the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa." Section 218(b)(1) of the Act refines the preceding definition solely for purposes of section 218, which concerns voluntary agreements for

coverage of State and local employees, by eliminating the District of Columbia, Guam, and American Samoa. The definition of the term "State" in § 404.1202(b) is based on the definition in section 218 of the Act. Since the CNMI is treated like Guam under the terms of the Covenant, we are revising § 404.1202(b) to reflect that the CNMI is not considered a State under section 218. Under the requirements of the Covenant, it will be treated as a State for various other purposes under title II, much like the entities listed in section 210(h) of the Act.

**B. Coverage of Ministers, Members of Religious Orders, and Christian Science Practitioners**

Section 1402(e) of the Code, 26 U.S.C. 1402(e), allows a duly ordained, commissioned, or licensed minister, a member of a religious order, or a Christian Science practitioner, to file, under the terms of that section, for an exemption from payment of SECA (Self-Employment Contributions Act) taxes. Section 1402(e) also provides that an exemption received pursuant to section 1402(e) is irrevocable. However, section 403 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170) amended the Code to permit individuals who previously opted for the exemption under section 1402(e)(1), a window of time in which to revoke the exemption. Once the exemption is revoked, the individual may not file any further applications for exemption under section 1402(e)(1). This provision is effective for services performed in taxable years beginning January 1, 2000. Depending on the date of the individual's election, the provisions of this law apply to services performed in either the individual's first or second taxable year beginning after December 31, 1999, and for all succeeding taxable years. The application for revocation of the exemption from coverage must be filed with the Internal Revenue Service (usually as part of the tax return) no later than the due date of the Federal Income Tax Return (including extensions) for the applicant's second taxable year beginning after December 31, 1999.

Congress has permitted revocations of the exemption twice in the past. The Social Security Amendments of 1977 (section 316 of Public Law 95-216) and the Tax Reform Act of 1986 (section 1704 of Public Law 99-514) each contained a provision for revocation within certain time periods. Section 404.1071(a) (Ministers and Members of a Religious Order) reflects the revocation period allowed in 1986. We

are revising § 404.1071(a) to reflect the revocation period allowed in 1977 and the most recent period of revocation offered by section 403 of the Ticket to Work and Work Incentives Improvement Act of 1999.

#### Public Comments

On April 7, 2004, we published proposed rules in the **Federal Register** at 69 FR 18310 and provided a 60-day period for interested parties to comment. We received no comments. We are, therefore, publishing these rules unchanged, except for minor technical corrections in accordance with the descriptions in the preamble to these rules.

#### Regulatory Procedures

*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.

#### Regulatory Flexibility Act

We certify that these final rules will not have a significant economic impact on a substantial number of small entities, as they affect only individuals. 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 new reporting or record keeping requirements subject to clearance by OMB.

(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: August 2, 2004.

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

■ For the reasons set forth in the preamble, we are amending subparts A, E, K and M of part 404 of title 20 of the Code of Federal Regulations as set forth below.

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

#### Subpart A—[Amended]

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

**Authority:** Secs. 203, 205(a), 216(j), and 702(a)(5) of the Social Security Act (42 U.S.C. 403, 405(a), 416(j), and 902(a)(5)) and 48 U.S.C. 1801.

■ 2. Section 404.2 is amended by revising paragraphs (c)(5) and (6) to read as follows:

#### § 404.2 General definitions and use of terms.

\* \* \* \* \*

(c) Miscellaneous. \* \* \*

(5) *State*, unless otherwise indicated, includes:

- (i) The District of Columbia,
- (ii) The Virgin Islands,
- (iii) The Commonwealth of Puerto Rico effective January 1, 1951,
- (iv) Guam and American Samoa, effective September 13, 1960, generally, and for purposes of sections 210(a) and 211 of the Act effective after 1960 with respect to service performed after 1960, and effective for taxable years beginning after 1960 with respect to crediting net earnings from self-employment and self-employment income,

(v) The Territories of Alaska and Hawaii prior to January 3, 1959, and August 21, 1959, respectively, when those territories acquired statehood, and

(vi) The Commonwealth of the Northern Mariana Islands effective January 1, 1987; Social Security coverage for affected employees of the government of the CNMI is also effective on January 1, 1987, under section 210(a)(7)(E) of the Social Security Act.

(6) *United States*, when used in a geographical sense, includes, unless otherwise indicated:

- (i) The States,
- (ii) The Territories of Alaska and Hawaii prior to January 3, 1959, and August 21, 1959, respectively, when they acquired statehood,
- (iii) The District of Columbia,
- (iv) The Virgin Islands,
- (v) The Commonwealth of Puerto Rico effective January 1, 1951, (vi) Guam and American Samoa, effective September 13, 1960, generally, and for purposes of sections 210(a) and 211 of the Act, effective after 1960 with respect to service performed after 1960, and effective for taxable years beginning after 1960 with respect to crediting net earnings from self-employment and self-employment income, and

(vii) The Commonwealth of the Northern Mariana Islands effective January 1, 1987.

\* \* \* \* \*

#### Subpart E—[Amended]

■ 3. 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(1), 223(e), 224, 225, 702(a)(5), and 1129A of the Social Security Act (42 U.S.C. 402, 403, 404(a) and (e), 405(a) and (c), 416(1), 423(e), 424a, 425, 902(a)(5) and 1320a–8a) and 48 U.S.C. 1801.

■ 4. Section 404.460 is amended by revising paragraph (a)(1) to read as follows:

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

(a) \* \* \*

(1) For nonpayment of benefits under this section, it is necessary that the beneficiary be an alien, and while an alien, be outside the United States for more than six full consecutive calendar months. In determining whether, at the time of a beneficiary's initial entitlement to benefits, he or she has been outside the United States for a period exceeding six full consecutive calendar months, not more than the six calendar months immediately preceding the month of initial entitlement may be considered. For the purposes of this section, *outside the United States* means outside the territorial boundaries of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

\* \* \* \* \*

#### Subpart K—[Amended]

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

**Authority:** Secs. 202(v), 205(a), 209, 210, 211, 229(a), 230, 231, and 702(a)(5) of the Social Security Act (42 U.S.C. 402(v), 405(a), 409, 410, 411, 429(a), 430, 431, 902(a)(5)) and 48 U.S.C. 1801.

■ 6. Section 404.1004 is amended by revising the section heading and paragraphs (b)(4), (b)(8) and (b)(9) to read as follows:

#### § 404.1004 What work is covered as employment?

\* \* \* \* \*

(b) \* \* \*

(4) *Citizen of the United States* includes a citizen of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa or the Commonwealth of the Northern Mariana Islands.

\* \* \* \* \*

(8) *State* refers to the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(9) *United States* when used in a geographical sense means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

#### §404.1020 [Amended]

■ 7. In section 404.1020, paragraph (a)(3) is amended by adding “the Commonwealth of the Northern Mariana Islands,” after “Guam,”.

■ 8. Section 404.1022 is amended by revising the section heading, and paragraphs (a) and (c) to read as follows:

#### § 404.1022 American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands.

(a) *Work in American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands.* Work in American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands for a private employer is covered as employment the same as in the 50 States. Work done by a resident of the Republic of the Philippines working in Guam on a temporary basis as a nonimmigrant alien admitted to Guam under section 101(a)(15)(H)(ii) of the Immigration and Nationality Act is excluded from coverage regardless of the employer.

\* \* \* \* \*

(c) *Work for Guam, the Commonwealth of the Northern Mariana Islands, or a political subdivision or wholly owned instrumentality of Guam or the Commonwealth of the Northern Mariana Islands.* Work as an officer or employee (including a member of the legislature) of the government of Guam, or the Commonwealth of the Northern Mariana Islands, their political subdivisions, or any wholly owned instrumentality of any one or more of these, is excluded from coverage as employment. However, the exclusion does not apply to employees classified as temporary or intermittent unless the work—

(1) Covered by a retirement system established by a law of Guam or the Commonwealth of the Northern Mariana Islands;

(2) Done by an elected official;

(3) Done by a member of the legislature; or

(4) Done in a hospital or penal institution for a patient or inmate of the hospital or penal institution.

\* \* \* \* \*

■ 9. Section 404.1071 is amended by revising paragraph (a) to read as follows:

#### § 404.1071 Ministers and members of religious orders.

(a) If you are a duly ordained, commissioned, or licensed minister of a church, or a member of a religious order who has not taken a vow of poverty, the services you perform in the exercise of your ministry or in the exercise of duties required by the order (§ 404.1023(c) and (e)) are a trade or business unless you filed for and were granted an exemption from coverage under section 1402(e) of the Code, and you did not revoke such exemption in accordance with the Social Security Amendments of 1977, section 1704(b) of the Tax Reform Act of 1986, or section 403 of the Ticket to Work and Work Incentives Improvement Act of 1999. An exemption cannot be granted if you filed a valid waiver certificate under the provisions of section 1402(e) that apply to taxable years ending before 1968.

\* \* \* \* \*

#### § 404.1093 [Amended]

■ 10. Section 404.1093 is amended by adding “the Commonwealth of the Northern Mariana Islands,” after “Guam,”.

#### § 404.1096 [Amended]

■ 11. Section 404.1096 is amended in paragraph (d) by adding “, the Commonwealth of the Northern Mariana Islands,” after “Guam”.

#### Subpart M—[Amended]

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

**Authority:** Secs. 205, 210, 218, and 702(a)(5) of the Social Security Act (42 U.S.C. 405, 410, 418, and 902(a)(5)); sec. 12110, Pub. L. 99–272, 100 Stat. 287 (42 U.S.C. 418 note); sec. 9002, Pub. L. 99–509, 100 Stat. 1970.

#### § 404.1200 [Amended]

■ 13. Section 404.1200 is amended in paragraph (b) by adding “the Commonwealth of the Northern Mariana Islands,” after “Guam,”.

#### § 404.1202 [Amended]

■ 14. In section 404.1202(b), the definition of “State” is amended by adding “, the Commonwealth of the Northern Mariana Islands,” after “Guam”.

[FR Doc. 04–19118 Filed 8–19–04; 8:45 am]

BILLING CODE 4191–02–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### 25 CFR Part 11

RIN 1076–AE53

#### Law and Order on Indian Reservations

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Final rule and request for comments.

**SUMMARY:** This document adds the Albuquerque Indian School property (Southwest Region, New Mexico) to the existing Santa Fe Indian School property listing of Courts of Indian Offenses. This will establish a judicial forum for the administration of justice within the property.

**DATES:** This rule is effective on August 20, 2004. Comments must be received on or before October 19, 2004.

**ADDRESSES:** You may submit comments, identified by the number 1076-AE53 by any of the following methods:

- *Federal rulemaking portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* (202) 208–5113.

- *Mail:* Ralph Gonzales, Office of Tribal Services, Bureau of Indian Affairs, 1951 Constitution Avenue, NW., MS 320–SIB, Washington, DC 20240.

- *Hand delivery:* Office of Tribal Services, Bureau of Indian Affairs, 1951 Constitution Avenue, NW., MS 320–SIB, Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Iris A. Drew, Tribal Government Officer, Southwest Regional Office, Bureau of Indian Affairs, P.O. Box 26567, 1001 Indian School Road NW., Albuquerque, New Mexico 87125–6567, at (505) 563–3530; or Ralph Gonzales, Office of Tribal Services, Bureau of Indian Affairs, 1951 Constitution Avenue NW., MS 320–SIB, Washington, DC 20240, at (202) 513–7629.

**SUPPLEMENTARY INFORMATION:** The authority to issue this rule is vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 2 and 9; and 25 U.S.C. 13, which authorizes appropriations for “Indian judges.” See *Tillet v. Hodel*, 730 F. Supp., 381 (W.D. Okla. 1990), *aff’d* 931 F.2d 636 (10th Cir. 1991), *United States v. Clapox*, 35 F. 575 (D. Ore. 1888). This rule is published in the exercise of the rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs in the Departmental Manual at 209 DM 8.1.

On January 29, 1993, the United States of America (“Grantor”), by the