

**Confirmation of Effective Date**

The FAA published this direct final rule with a request for comments in the **Federal Register** on February 14, 2008 (73 FR 8595), Docket No. FAA-2007-0277; Airspace Docket No. 07-AEA-17. The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on June 5, 2008. No adverse comments were received, and thus this notice confirms that effective date.

Issued in College Park, Georgia, on April 21, 2008.

**Lynda G. Otting,**

*Acting Manager, System Support Group,  
Eastern Service Center, Air Traffic  
Organization.*

[FR Doc. E8-10432 Filed 5-14-08; 8:45 am]

**BILLING CODE 4910-13-M**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****14 CFR Part 1210**

[Notice (08-045)]

**RIN 2700-AC81**

**Development Work for Industry in NASA Wind Tunnels**

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Final rule.

**SUMMARY:** The National Aeronautics and Space Administration (NASA) is amending its regulations by removing part 1210. This amendment will allow Agency, Center, and wind tunnel facility operations manuals to provide guidance on project priority, facility utilization charges, and test preparation and conduct.

**DATES:** Effective July 14, 2008.

**FOR FURTHER INFORMATION CONTACT:** *Technical information:* Michael George, 650-604-5881.

*Legal information:* Rebecca Gilchrist, 202-358-2072.

**SUPPLEMENTARY INFORMATION:** The amendment of 14 CFR part 1210 will eliminate existing errors in reference to Agency policy, offices, and positions. The amendment will also eliminate redundancy and conflicts in guidance regarding the establishment of

agreements with other government agencies, industry, academia, and foreign entities as outlined in 14 CFR 1210.1 thru 1210.5. Authority, regulation, and guidance for these types of agreements are provided by the following policies: 42 U.S.C. 2473(c)(1), section 203(c)(1) of the National Aeronautics and Space Act of 1958, as amended; NASA Financial Management Requirements Vol. 16 Reimbursable Agreements; NASA Policy Directive 1050.1H Authority to Enter Space Act Agreements; and NAAI 1050-1A Space Act Agreement Manual.

The amendment will eliminate existing errors in 14 CFR 1210.6 Test Preparation and Conduct which provides guidance in facility operational testing procedures. For example, the section does not address the implementation of NASA export control policy regarding data handling and transfer as required by the following: 50 U.S.C. Appendix, parts 2401-2420, the Export Administration Act of 1979 (Pub. L. 96-72), as amended, 15 CFR parts 730-774, Export Administration Regulations, 22 CFR parts 120-130, International Traffic in Arms Regulations.

Facility-specific, day-to-day operational procedures will be, and currently are, dictated by Agency and Center policy which can be found in documents such as:

APR 8800.7, R&D Facilities Services Core Processes, February 6, 2006.

NASA TM-1999-208478/Rev1 Glenn 1X1 Supersonic Wind Tunnel User Manual.

NASA TM 2004-21697 User Manual for 10X10 Supersonic Wind Tunnel.

Standards Handbook for Planning and Conducting Wind Tunnel Tests at Glenn Research Center.

The amendment will ensure Agency, Center, and facility policy to provide guidance where deemed appropriate and ease the process for changing and maintaining these documents by placing that responsibility at the appropriate management level.

**List of Subjects in 14 CFR Part 1210**

Armed Forces, Classified information, Engineers, Federal buildings and facilities, Government contracts, Intergovernmental relations, National defense, and Utilities.

**PART 1210—[REMOVED]**

■ Under the authority of 42 U.S.C. 2473, The National Aeronautics and Space

Administration amends 14 CFR Chapter V by removing and reserving part 1210.

**Michael D. Griffin,**

*Administrator.*

[FR Doc. E8-10799 Filed 5-14-08; 8:45 am]

**BILLING CODE 7510-13-P**

**SOCIAL SECURITY ADMINISTRATION****20 CFR Part 416**

[Docket No. SSA 2007-0070]

**RIN 0960-AF96**

**Parent-to-Child Deeming From Stepparents**

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Final rule.

**SUMMARY:** We are changing the Supplemental Security Income (SSI) parent-to-child deeming rules so that we no longer will consider the income and resources of a stepparent when an eligible child resides in the household with a stepparent, but that child's natural or adoptive parent has permanently left the household. These rules respond to a decision by the United States Court of Appeals for the Second Circuit, codified in Social Security Acquiescence Ruling (AR) 99-1(2), and establish a uniform national policy. Also, we are making uniform the age at which we consider someone to be a "child" in SSI program regulations and are making other minor clarifications to our rules.

**DATES:** This final rule is effective on June 16, 2008.

**FOR FURTHER INFORMATION CONTACT:** Eric Skidmore, Office of Income Security Programs, 252 Altmeyer Building, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 597-1833. 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 site, Social Security Online, at <http://www.socialsecurity.gov>.

**SUPPLEMENTARY INFORMATION:****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>.

**Background**

The basic purpose of the SSI program is to provide a minimum level of income to people aged 65 or older, or who are blind or disabled, and who

have limited income and resources. Section 1611 of the Social Security Act (the Act) provides that SSI payments can only be made to people who have income and resources below specified amounts. When we determine SSI eligibility and benefit amounts, we always consider the individual's own income and resources. Through a process known as deeming, we also consider the income and resources of others who are responsible for the individual's welfare. Deeming is based on the concept that those with responsibility for others provide support to them.

Section 1614(f)(2) of the Act requires the Commissioner of Social Security (the Commissioner) to deem the income and resources of eligible children to include the income and resources of a natural or adoptive parent and the spouse of a parent who are living in the same household as the eligible child. These income and resource amounts are deemed to the eligible child whether or not they are available to the child, except to the extent determined by the Commissioner to be inequitable under the circumstances.

Existing regulations in 20 CFR part 416, subparts K, L, and R, apply to parents and stepparents equally for purposes of deeming income and resources to an eligible child who lives in the same household as the parent or stepparent. However, a 1998 decision by the United States Court of Appeals for the Second Circuit held that our regulations require that a stepparent live in the same household as the natural or adoptive parent, in addition to living with the child, in order for the stepparent's income to be deemed to the child. (*Florez on behalf of Wallace v. Callahan*, 156 F.3d 438). In the case of a natural parent who abandoned the family home leaving her spouse, as stepparent, with sole physical custody of the eligible child, the Second Circuit found that deeming of a stepparent's income to the child was not supported by the regulations.

The Second Circuit also disagreed with our position that the controlling regulation in the case was § 416.1806, which addresses who is a spouse for SSI purposes and, by extension, who is a spouse for purposes of deeming. Under that regulation, we deem the income and resources of a stepparent living in the same household as the eligible child when the stepparent is legally married under State law to that child's natural or adoptive parent, even if the natural or adoptive parent is not living in the household. Instead, the court held that § 416.1101, which defines a spouse as someone who lives with another person

as that person's husband or wife, was the controlling regulation. The court found that §§ 416.1101 and 416.1806 created a two-part test for determining whether a stepparent who lives with the eligible child is an eligible parent for deeming purposes under § 416.1160. Under this test, the spouse must live with the child's natural or adoptive parent pursuant to § 416.1101, and the relationship must be as husband or wife, as defined at § 416.1806. The court concluded that both the plain language of these regulations and the legislative history of the Act required us to exclude a stepparent's income from deeming when the eligible child's natural parent no longer resided in the family home. As a result of this decision, we issued AR 99-1(2) on February 1, 1999, to apply the court's decision in the States in the Second Circuit. We apply the AR if an SSI beneficiary is an eligible child who resides in Connecticut, New York, or Vermont at the time of the determination (including all post-eligibility determinations) or decision at any level of the administrative review process. We continue to use § 416.1806 as the controlling regulation in similar cases for the rest of the nation.

The new regulation will restore national uniformity by extending the policy set out in AR 99-1(2) to the rest of the nation. The regulation deems a child's income and resources to include the income and resources of the stepparent only if the stepparent lives in the same household as the child and the natural or adoptive parent. We will not deem the income and resources of a stepparent to an eligible child if the natural or adoptive parent is permanently absent from the household. We are publishing a notice in the **Federal Register** effective on the same day as this final rule to rescind AR 99-1(2).

Generally, we believe this regulation will prove beneficial to SSI children because we will not deem income or resources from stepparents who assume sole responsibility for their well-being. We also believe the policy change embodied in the regulation will encourage stepparents to voluntarily accept responsibility for SSI eligible children who have been abandoned by their natural or adoptive parents. This regulatory change may affect a small number of children in the following circumstance: the stepparent no longer will be considered a parent for deeming purposes. However, the child will be considered living in another person's household and, therefore, possibly in receipt of income in the form of in-kind support and maintenance (ISM). ISM includes the value of food and shelter

that an individual receives while in the household of someone who is not the individual's spouse or parent. Although we no longer will deem the stepparent's income and resources when the natural or adoptive parent has left the home, under the SSI living arrangement rules, we will consider the value of the ISM the child may receive. When the individual is living in the household of another, we determine the value of ISM by dividing the food and household expenses by the number of people in the household and then subtracting the individual's contribution, if any, toward those expenses. If the individual's contribution is less than the computed pro rata share of the expenses, the difference between the contribution and the pro rata share is counted as income to the individual. The amount of income charged to an eligible individual in such a situation is capped at one-third of the Federal Benefit Rate (FBR) for an individual. We reduce the amount of ISM charged to the child if the child contributed a portion of his or her income (such as the child's SSI check) toward the household expenses. In no case can ISM alone cause a child to be ineligible for SSI benefits.

In order to determine the effect of this change on eligible children, we tracked cases in the States in the Second Circuit for a 1-year period following issuance of AR 99-1(2). We found no other cases where the stepparent was the only person who remained in the household with the eligible child after the natural or adoptive parent left. Since there are generally other people in the household, we believe it is likely that the eligible child could pay his or her pro rata share of the household expenses and, therefore, the child would be charged with little or no ISM. In addition, if the computation results in countable ISM, it may be less than the amount of deemed income we would have counted under our prior rules in such a circumstance. As compared to our prior rules where we deem a stepparent's income, we believe these final rules likely will cause no adverse impact on the child.

We considered the possibility of revising our regulations pertaining to ISM to not count ISM in this situation. However, we determined that this option was undesirable because of the inequities it would create. We could not justify not counting ISM where an eligible child lives with a non-deemor stepparent, but continuing to count ISM in similar situations, such as where an eligible child lives with a non-deemor such as a friend or other relative. In addition, we modified our regulations to clarify our longstanding policy of not deeming the income and resources of a

stepparent who lives with an eligible child to the child when the natural or adoptive parent dies or divorces the stepparent.

We also made one change and one clarification to our definition of “ineligible child.” First, we eliminated the age difference in our regulations between our definitions of “child” and “ineligible child.” For purposes of consistency and to make our rules more easily understood by the public, we revised the regulatory definition of “ineligible child” to mirror the regulatory definition of “child” with respect to the maximum age requirement. The new rule permits a child in the household to be considered an ineligible child for deeming purposes until attainment of age 22, assuming all other requirements are met.

We modified our definition of “ineligible child” to make clear that we will provide an allocation even if that ineligible child’s parent were to leave the household. In determining the amount of income to deem from a parent to an eligible child, we make an allocation for other ineligible children in the home: We consider what other ineligible children reside in the home and reduce the amount of income to be deemed accordingly. And, consistent with our current policy, the final rule clarifies that we use the definition of “spouse” at § 416.1806 when determining who meets the definition of “ineligible child” for SSI purposes.

Finally, we updated our regulations to properly identify the United States Department of Homeland Security. This change is clerical in nature and has no substantive effect on our policies or procedures.

### Explanation of Proposed Changes

We amended the regulations in 20 CFR, part 416, subparts K, L, and R, to implement policy changes and clarify existing policy as discussed above. In summary, we are:

- Revising §§ 416.1160(a)(2) and (d), 416.1165(g)(4), 416.1202(b)(1), and 416.1851(c) to not deem income and resources from a stepparent when an eligible child lives with a stepparent but not with his or her natural or adoptive parent. This will make our national policy uniform with respect to the deeming of income and resources from stepparents to eligible children when the natural or adoptive parent has permanently left the household.

- Updating § 416.1160(d) to replace “Immigration and Naturalization Service” with “U.S. Citizenship and Immigration Services” due to a change in the name of a government entity. This

is a result of the creation of the Department of Homeland Security.

- Revising the definition of ineligible child in § 416.1160(d) to remove the under 21 age standard so that the definition of “ineligible child” will cross-reference the definition of “child” in § 416.1101, which uses an age limit of 22. This change eliminates the distinction between an “ineligible child” for deeming purposes and a “child” for all other purposes.

- Revising the definition of ineligible child in § 416.1160(d) to clarify how we decide who is a “spouse” when determining who is an “ineligible child.” The definition of “ineligible child” will cross-reference § 416.1806 defining how we determine if an individual is married and who is a spouse. The change clarifies our regulations, consistent with our policy, to provide an ineligible child allocation when the spouse of a parent leaves the household, but the spouse’s children remain in the household with the eligible child and the parent of the eligible child.

- Revising § 416.1165(g)(3) to clarify how we deem income to an eligible child when the ineligible parent dies. The changes to § 416.1165(g)(3) clarify our longstanding policy, consistent with § 416.1881(b), to not deem the income of the stepparent to the eligible child when the natural or adoptive parent dies or divorces the stepparent.

- Updating § 416.1204 to replace “Immigration and Naturalization Service” with “U.S. Citizenship and Immigration Services” due to a change in the name of the government entity. This is a result of the creation of the Department of Homeland Security.

### Public Comments

In the notice of proposed rulemaking we published at 72 FR 72641 (December 21, 2007), we provided the public with a 60-day period in which to comment on the proposed changes. That comment period ended on February 19, 2008. We received comments from one individual who supported the proposed changes.

### Regulatory Procedures

#### *Executive Order 12866, as Amended*

The Office of Management and Budget (OMB) determined that the proposed rules met the requirements for a significant regulatory action under Executive Order 12866, as amended, and it reviewed those proposed rules. Because we are making no changes in the final rules from what we proposed, OMB agreed that it did not need to review the final rules.

### *Regulatory Flexibility Act*

We certify that these rules will not have a significant economic impact on a substantial number of small entities because they affect only individuals. Accordingly, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

### *Paperwork Reduction Act*

These regulations will impose no additional reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance Programs No. 96.006, Supplemental Security Income)

### List of Subjects in 20 CFR Part 416

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

Dated: May 8, 2008.

**Michael J. Astrue,**

*Commissioner of Social Security.*

■ For the reasons set out in the preamble, we are amending subparts K, L, and R of part 416 of chapter III of title 20 Code of Federal Regulations as set forth below:

### **PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED**

#### **Subpart K—[Amended]**

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

**Authority:** Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, 1383, and 1383b); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

■ 2. Amend § 416.1160 by revising the section heading, paragraph (a)(2) and the definitions of “Date of admission to or date of entry into the United States” and “Ineligible child” in paragraph (d) to read as follows:

#### **§ 416.1160 What is deeming of income?**

(a) \* \* \*

(2) *Ineligible parent.* If you are a child to whom deeming rules apply (see § 416.1165), we look at your ineligible parent’s income to decide whether we must deem some of it to be yours. If you live with both your parent and your parent’s spouse (i.e., your stepparent), we also look at your stepparent’s income to decide whether we must deem some of it to be yours. We do this because we expect your parent (and

your stepparent, if living with you and your parent) to use some of his or her income to take care of your needs.

\* \* \* \* \*

(d) \* \* \*

*Date of admission to or date of entry into the United States* means the date established by the U.S. Citizenship and Immigration Services as the date the alien is admitted for permanent residence.

\* \* \* \* \*

*Ineligible child* means your natural child or adopted child, or the natural or adopted child of your spouse, or the natural or adopted child of your parent or of your parent's spouse (as the term *child* is defined in § 416.1101 and the term *spouse* is defined in § 416.1806), who lives in the same household with you, and is not eligible for SSI benefits.

\* \* \* \* \*

■ 3. Amend § 416.1165 by revising paragraphs (g)(3) and (g)(4) to read as follows:

**§ 416.1165 How we deem income to you from your ineligible parent(s).**

\* \* \* \* \*

(g) \* \* \*

(3) *Ineligible parent dies.* If your ineligible parent dies, we do not deem that parent's income to you to determine your eligibility for SSI benefits beginning with the month following the month of death. In determining your benefit amount beginning with the month following the month of death, we use only your own countable income in a prior month, excluding any income deemed to you in that month from your deceased ineligible parent (see § 416.1160(b)(2)(iii)). If you live with two ineligible parents and one dies, we continue to deem income from the surviving ineligible parent who is also your natural or adoptive parent. If you live with a stepparent following the death of your natural or adoptive parent, we do not deem income from the stepparent.

(4) *Ineligible parent and you no longer live in the same household.* If your ineligible parent and you no longer live in the same household, we do not deem that parent's income to you to determine your eligibility for SSI benefits beginning with the first month following the month in which one of you leaves the household. We also will not deem income to you from your parent's spouse (i.e., your stepparent) who remains in the household with you if your natural or adoptive parent has permanently left the household. To determine your benefit amount if you continue to be eligible, we follow the rule in § 416.420 of counting your

income including deemed income from your parent and your parent's spouse (i.e., your stepparent) (if the stepparent and parent lived in the household with you) in the second month prior to the current month.

\* \* \* \* \*

**Subpart L—[Amended]**

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

**Authority:** Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, 1383, and 1383b); sec. 211, Pub. L. 93-66, 87 Stat. 154 (42 U.S.C. 1382 note).

■ 5. Amend § 416.1202 by revising paragraph (b)(1) to read as follows:

**§ 416.1202 Deeming of resources.**

\* \* \* \* \*

(b) Child—(1) *General.* In the case of a child (as defined in § 416.1856) who is under age 18, such child's resources shall be deemed to include any resources, not otherwise excluded under this subpart, of an ineligible parent of such child who is living in the same household with such child (as described in § 416.1851). Such child's resources also shall be deemed to include the resources of an ineligible spouse of a parent (stepparent), provided the stepparent lives in the same household as the child and the parent. The child's resources shall be deemed to include the resources of the parent and stepparent whether or not the resources of the parent and stepparent are available to the child, to the extent that the resources of such parent (or parent and stepparent), exceed the resource limits described in § 416.1205 except as provided in paragraph (b)(2) of this section. (If the child is living with only one parent, the resource limit for an individual applies. If the child is living with both parents, or the child is living with one parent and the stepparent, the resource limit for an individual and spouse applies.) In addition to the exclusions listed in § 416.1210, pension funds which the parent or spouse of a parent may have are also excluded. The term "pension funds" is defined in paragraph (a) of this section. As used in this section, the term "parent" means the natural or adoptive parent of a child and the terms "spouse of a parent" and "stepparent" means the spouse (as defined in § 416.1806) of such natural or adoptive parent who is living in the same household with the child and parent.

\* \* \* \* \*

■ 6. Amend § 416.1204 by revising the first two sentences of the introductory text to read as follows:

**§ 416.1204 Deeming of resources of the sponsor of an alien.**

The resources of an alien who first applies for SSI benefits after September 30, 1980, are deemed to include the resources of the alien's sponsor for 3 years after the alien's date of admission into the United States. The *date of admission* is the date established by the U.S. Citizenship and Immigration Services as the date the alien is admitted for permanent residence.

\* \* \* \* \*

**Subpart R—[Amended]**

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

**Authority:** Secs. 702(a)(5), 1612(b), 1614(b), (c), and (d), and 1631(d)(1) and (e) of the Social Security Act (42 U.S.C. 902(a)(5), 1382a(b), 1382c(b), (c), and (d), and 1383(d)(1) and (e)).

■ 8. Amend § 416.1851 by revising the first sentence of paragraph (c) and adding a new second sentence to read as follows:

**§ 416.1851 Effects of being considered a child.**

\* \* \* \* \*

(c) If you are under age 18 and live with your parent(s) who is not eligible for SSI benefits, we consider (deem) part of his or her income and resources to be your own. If you are under age 18 and live with both your parent and your parent's spouse (stepparent) and neither is eligible for SSI benefits, we consider (deem) part of their income and resources to be your own.

[FR Doc. E8-10800 Filed 5-14-08; 8:45 am]

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 522**

**Implantation or Injectable Dosage Form New Animal Drugs; Flunixin**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental abbreviated new animal drug application (ANADA) filed by IVX Animal Health, Inc. The