

this regulation are welcome on a continuing basis.

List of Subjects in 15 CFR Part 744

Exports, Foreign trade, Reporting and recordkeeping requirements.

■ Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–799) is amended as follows:

PART 744—[AMENDED]

■ 1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of October 29, 2003, 68 FR 62209, 3 CFR, 2003 Comp., p. 347; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

■ 2. Section 744.4 is amended by revising paragraph (a) to read as follows:

§ 744.4 Restrictions on certain chemical and biological weapons end-uses.

(a) *General prohibition.* In addition to the license requirements for items specified on the CCL, you may not export or reexport an item subject to the EAR without a license if, at the time of export or reexport you know that the item will be used in the design, development, production, stockpiling, or use of chemical or biological weapons in or by any country or destination, worldwide.

* * * * *

Dated: March 23, 2005.

Matthew S. Borman,
Deputy Assistant Secretary for Export Administration.

[FR Doc. 05–6271 Filed 3–29–05; 8:45 am]

BILLING CODE 3510–33–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404, 408 and 416

[Regulations No. 4, 8 and 16]

RIN 0960–AG06

Expanded Authority for Cross-Program Recovery of Benefit Overpayments

AGENCY: Social Security Administration.

ACTION: Final rules.

SUMMARY: We are adopting without change the final rules that were

published in the **Federal Register** on January 3, 2005, at 70 FR 11, revising our rules on the recovery of overpayments incurred under one of our programs from benefits payable to the overpaid individual under other programs we administer. The revised rules expand the authority for cross-program recovery of overpayments made in our various programs. We are implementing a portion of those rules that we did not implement on January 3, 2005, pending consideration of public comments that we requested at that time.

DATES: Most of these rules were effective January 3, 2005. Some provisions were changed from the version published earlier with a notice of proposed rulemaking (NPRM) and were not implemented on January 3. We are implementing those changes effective March 30, 2005.

Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at <http://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:

Richard Bresnick, Social Insurance Specialist, Office of Regulations, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–1758 or TTY 1–800–966–5609, for information about this notice. 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:

Background

On August 24, 2004, at 69 FR 51962, we published an NPRM in which we proposed to expand our ability to recover overpayments made in one of our programs from benefits payable to the overpaid individual under other programs we administer. These programs are Social Security benefits under title II of the Social Security Act (the Act), Special Veterans Benefits (SVB) under title VIII of the Act and Supplemental Security Income (SSI) benefits under title XVI of the Act. After considering the public comments we received on the NPRM, we published the final rules with request for comment on January 3, 2005, at 70 FR 11, expanding our cross-program recovery authority effective January 3, 2005. As

stated in those final rules with request for comment, although most of the amendments to the regulations were effective upon publication, we solicited additional public comments on material changes from the NPRM version in some provisions (*i.e.*, the removal of provisions excluding certain types of cases from cross-program recovery). We stated that we would not implement these changes until after we considered any comments we received during the 30-day public comment period.

Final Rules With Request for Comment

In the final rules with request for comment published January 3, 2005, we changed the regulations in 20 CFR parts 404, 408 and 416 to reflect the expanded cross-program recovery authority granted by section 1147 of the Act (42 U.S.C. 1320b–17), as amended by section 210 of the Social Security Protection Act of 2004 (SSPA), Public Law 108–203.

Previously, part 404 had no provisions permitting cross-program recovery, since that option had not been applied to collect title II benefit overpayments. In part 404, we added new §§ 404.530, .535, .540 and .545, which parallel existing regulations at §§ 408.930 through 408.933, to include the expanded authority to recover title II overpayments as follows:

- We may withhold from a current monthly SSI payment no more than the lesser of that payment or 10 percent of the monthly income (as defined in the regulation) to recover a title II overpayment;
- We may withhold no more than 10 percent of current monthly SVB payments to recover a title II overpayment;
- We may withhold up to 100 percent of SSI and SVB past-due payments to recover a title II overpayment.

We changed §§ 408.930 through 408.933 to reflect the expanded authority to recover title VIII overpayments as follows:

- We may withhold from a current monthly SSI payment no more than the lesser of that payment or 10 percent of the monthly income to recover an SVB overpayment;
- We may withhold no more than 10 percent of current monthly title II benefits to recover an SVB overpayment;
- We may withhold up to 100 percent of title II and SSI past-due payments to recover an SVB overpayment.

We changed the regulations at § 416.570 to delete obsolete information. We changed the regulations at § 416.572 and added §§ 416.573, .574 and .575 to reflect the expanded authority to

recover title XVI overpayments as follows:

- We may withhold no more than 10 percent of current monthly title II benefits to recover an SSI overpayment;
- We may withhold no more than 10 percent of current monthly SVB payments to recover an SSI overpayment;
- We may withhold up to 100 percent of title II and SVB past-due payments to recover an SSI overpayment.

The new sections follow the same structure as the existing regulations at §§ 408.930 through 408.933. We believe that this format is easy for members of the public to understand. We removed the title II example from § 416.572 because the example illustrated how we applied the 10 percent limit to past-due title II benefits. Under the new law, this limitation no longer applies. We removed the title VIII example from § 416.572 because we added a cross-reference to the title VIII regulations that explain how title VIII benefits are computed.

We removed from the SVB and SSI regulations the provisions that preclude cross-program recovery when the overpaid person is currently eligible for payment under the program from which we made the overpayment. The amended statute does not contain that restriction. As revised, § 416.572(b) also states that if we are already recovering an overpayment from title II benefits, the maximum amount which may be withheld from title XVI monthly benefits is the lesser of the person's title XVI benefit for that month or 10 percent of the person's total income for that month, not including the title II income used to compute the title XVI benefit.

Like the current regulations in 20 CFR part 408, subpart I, and part 416, subpart E, the final regulations for each program require that, before we impose cross-program recovery, we will notify the overpaid person of the proposed action and allow the overpaid person an opportunity to pay the remaining balance of the overpayment debt, to request review of the status of the debt, to request waiver of recovery, and to request recovery of the debt from current monthly benefits at a different rate than that stated in the notice. We will not begin cross-program recovery from current monthly benefits until 30 calendar days have elapsed after the date of the notice. If within that time period the person requests review of the debt, waiver of recovery of the debt, or reduction of the rate of recovery from current monthly benefits stated in the notice, we will not take any action to reduce current monthly benefits before we notify the debtor of our

determination on the request. As permitted by section 1147(b)(2)(A) of the Act, the regulations provide that, if we find that the overpaid person or that person's spouse was involved in willful misrepresentation or concealment of material information in connection with the overpayment, we can withhold the entire amount of the current monthly benefit.

As we mentioned above, the final rules with request for comment contained material changes from the NPRM published on August 24, 2004. We deleted from §§ 404.530(b), 408.930(b) and 416.572(b) the provisions that excluded certain types of cases from cross-program recovery. Under one of the exclusions, we would not have applied cross-program recovery when the overpaid person was no longer eligible for payment under the program where the overpayment occurred but was refunding that overpayment voluntarily by making monthly installment payments. Under the other exclusion, we would not have recovered an overpayment in one program by adjusting benefits payable under another program when we were already adjusting those benefits to recover an overpayment of benefits within that program.

As amended by section 210 of the SSPA, section 1147 of the Act permits us to apply cross-program recovery in both situations described above. By eliminating these exclusions from paragraph (b) of §§ 404.530, 408.930 and 416.572, we believe that we will fulfill our stewardship responsibilities regarding the programs more effectively. If an individual is not eligible for SSI benefits and is refunding an SSI overpayment by making monthly installment payments, we would be able to recover the SSI overpayment by cross-program recovery against a title II past-due benefit. Cross-program recovery is a more efficient and reliable collection method than collection by installment payments. This approach is consistent with our policy under amended section 1147 of the Act to apply cross-program recovery in addition to adjusting benefits payable under the program in which the overpayment was made. Moreover, if an individual incurred both an SSI overpayment and a title II overpayment, we would be able to recover both the title II overpayment and the SSI overpayment simultaneously from the title II benefits. For example, if we are collecting a title II overpayment by title II benefit adjustment and a large title II underpayment becomes payable, we could collect the title II overpayment balance from that underpayment and

apply any remaining title II past-due benefits to the SSI overpayment.

Public Comments

The final rules with request for comment that were published on January 3, 2005, provided the public with a 30-day comment period. We received one comment.

Comment: The commenter expressed concerns about the repayment ability of title II and SSI beneficiaries, since many have no other income and would not be able to meet their living expenses if cross-program recovery is implemented as planned.

Response: There are procedures in place to accommodate individuals who cannot afford to repay an overpayment by cross-program recovery at the proposed rate. Our new regulations at 20 CFR 404.540, 408.932 and 416.574 state that the written notice of our intention to apply cross-program recovery will advise that the beneficiary may request a different rate of withholding from the amount proposed. If a lower rate is requested, a rate of withholding that is appropriate to the financial condition of the overpaid individual will be set after an evaluation of all the pertinent facts. See 20 CFR 404.508, 404.535(c), 408.923, 408.931(c), 416.571 and 416.573(c). However, we will not withhold at a lower rate if the individual willfully misrepresented or concealed material information in connection with the overpayment. See 20 CFR 404.535(d), 408.931(d), and 416.573(d).

Regulatory Procedures

Executive Order 12866, as Amended by Executive Order 13258

The Office of Management and Budget (OMB) has reviewed these rules in accordance with Executive Order 12866, as amended by Executive Order 13258. We have also determined that these rules meet the plain language requirement of Executive Order 12866, as amended by Executive Order 13258.

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 individuals only. Thus, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) says that no persons are required to respond to a collection of information unless it displays a valid OMB control number. In accordance with the PRA, SSA is providing notice that OMB has

approved the information collection requirements contained in § 408.932(c), (d) and (e) of these final rules. The OMB control number for this collection is 0960-0692, expiring November 30, 2007.

(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; 96.006, Supplemental Security Income; and 96.020, Special Benefits for Certain World War II Veterans)

List of Subjects

20 CFR Part 404

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

20 CFR Part 408

Administrative practice and procedure, Aged; Reporting and recordkeeping requirements, Social Security; Special Veterans benefits, Veterans.

20 CFR Part 416

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

Dated: March 9, 2005.

Jo Anne B. Barnhart,
Commissioner of Social Security.

■ Accordingly, the final rules amending 20 CFR parts 404, 408 and 416 that were published at 70 FR 11 on January 3, 2005, are adopted as final rules without change.

[FR Doc. 05-6204 Filed 3-29-05; 8:45 am]

BILLING CODE 4191-02-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01-05-023]

Drawbridge Operation Regulations: Housatonic River, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the U.S. 1 Bridge, mile

3.5, across the Housatonic River at Stratford, Connecticut. Under this temporary deviation only one of the two-bascule leafs at the bridge need open for the passage of vessel traffic from April 1, 2005 through May 27, 2005. Two-leaf, full bridge openings, will be provided upon three days advance notice. This temporary deviation is necessary to facilitate rehabilitation repairs at the bridge.

DATES: This deviation is effective from April 1, 2005 through May 27, 2005.

FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668-7195.

SUPPLEMENTARY INFORMATION: The U.S. 1 Bridge has a vertical clearance in the closed position of 32 feet at mean high water and 37 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.207.

The bridge owner, Connecticut Department of Transportation, requested a temporary deviation from the drawbridge operation regulations to facilitate scheduled rehabilitation maintenance at the bridge.

Under this temporary deviation only one of the two-bascule leafs need open for the passage of vessel traffic from April 1, 2005 through May 27, 2005. Two-leaf, full bridge openings, shall be provided after at least a three-day advance notice is given by calling the number posted at the bridge.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: March 23, 2005.

Gary Kassof,
Bridge Program Manager, First Coast Guard District.

[FR Doc. 05-6309 Filed 3-29-05; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05-05-021]

RIN 1625-AA00

Safety Zone; National Cherry Blossom Festival Fireworks Display, Potomac River, Washington, DC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on

the Upper Potomac River in the Washington Channel, Washington, DC. This safety zone is necessary to provide for the safety of life and property during a fireworks display being held during the annual National Cherry Blossom Festival in Washington, DC. This safety zone will restrict the movement of vessel traffic in the immediate area of the fireworks discharge site.

DATES: This rule is effective from 7 p.m. to 9 p.m. eastern standard time on April 2, 2005, with a rain date of April 3, 2005.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD05-05-021 and are available for inspection or copying at Commander, Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Baltimore, Maryland 21226-1791, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald L. Houck, Coast Guard Sector Baltimore, at (410) 576-2674.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM and delaying its effective date would be contrary to the public interest, since there is not sufficient time to publish a proposed rule in advance of the event and immediate action is needed to protect persons and vessels against the hazards associated with a fireworks display from a barge, such as premature detonation or falling burning debris.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. This safety zone of short duration is needed to provide for the safety of persons and vessels on the Potomac River and the public at large. Advance notification of the security zone and the fireworks display will be provided to the public via marine information broadcasts and by local media.

Background and Purpose

On April 2, 2005, the National Cherry Blossom Festival will sponsor a fireworks display from a barge on the Washington Channel, in Washington, DC, in approximate position latitude 38°52'08.5" N, longitude 077°01'13.0" W. The event will consist of an aerial fireworks display of short duration. A fleet of spectator vessels is anticipated.