

NDB instrument approach procedures at Kake, AK. The status of Kake Airport will change from VFR to IFR. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1 (61 FR 48403; September 13, 1996). The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that these proposed regulations only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(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 11034; 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 only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will 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. 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

* * * * *

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

* * * * *

AAL AK E5 Kake, AK [New]

Kake Airport

(Lat. 56°57'41" N; long. 133°54'37" W)

Kake NDB/DME

(Lat. 56°57'50" N; long. 133°54'43" W)

Sumner Strait NDB

(Lat. 56°27'53" N; long. 133°05'50" W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Kake Airport; and that airspace extending upward from 1,200 feet above the surface within 6 miles north and 9 miles south of the 286° bearing from the Kake NDB/DME extending from the NDB/DME to 22 miles west of the airport and within 4 miles each side of the 138° bearing from the Kake NDB/DME extending from the 6.5-mile radius to Sumner Strait NDB.

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Issued in Anchorage, AK, on January 15, 1997.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

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SOCIAL SECURITY ADMINISTRATION

20 CFR Part 416

[Regulations No. 16]

RIN 0960-AD86

Deeming in the Supplemental Security Income (SSI) Program When an Ineligible Spouse or Parent Is Absent From the Household Due Solely to Active Military Service

AGENCY: Social Security Administration.
ACTION: Proposed rule.

SUMMARY: We are proposing to add a rule on how the income and resources of ineligible spouses or parents affect the eligibility and benefit amounts of Supplemental Security Income (SSI) claimants and recipients when those spouses or parents are absent from their households due solely to a duty assignment as a member of the Armed Forces on active duty. We are proposing to add this rule because the current rules do not reflect the provision of the Social Security Act (the Act), as amended by the Omnibus Budget Reconciliation Act of 1993 (OBRA 1993), that addresses this situation.

DATES: To be sure that your comments are considered, we must receive them no later than March 25, 1997.

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 this rule.

SUPPLEMENTARY INFORMATION:

Regulations at 20 CFR 416.1167(a) state that a “temporary” absence, for SSI deeming purposes, occurs when an SSI claimant/recipient, an ineligible spouse or parent, or an ineligible child leaves the household but intends to, and does, return in the same month or the month immediately following. If the absence is temporary, we continue to consider the person a member of the household for deeming purposes.

Under our policy prior to October 1, 1993, an ineligible spouse or parent who was absent from an SSI claimant’s or recipient’s household for any reason, including active duty military service, and whose absence was not temporary (20 CFR 416.1167(a)), was not considered to be a member of the household for deeming purposes effective with the first day of the month following the month the spouse or parent left the household.

Section 13733(a) of OBRA 1993 (Public Law 103-66) changed SSI policy, effective October 1, 1993, on the treatment of ineligible spouses and parents who are absent from deeming households solely because of active duty military assignments. Under this legislation, which added paragraph (4) to section 1614(f) of the Act, the service member continues to be considered a member of the household, absent evidence to the contrary, for income and resources deeming purposes. Current regulations do not specifically address this situation.

The change in the deeming rules made by section 13733(a) of Public Law 103-66 was intended to prevent an absent deeming’s active military service from adversely affecting an SSI claimant’s or recipient’s benefits. Prior to the change in the deeming rules, and

under certain circumstances, it was possible for an individual to receive a smaller SSI benefit—or no benefit at all—as a result of a spouse's or parent's absence from the household due to military service.

For SSI purposes, the treatment of an ineligible spouse's or parent's earnings differs depending on whether the spouse or parent is considered to be living in the same household as the SSI recipient. If the spouse or parent is considered to be living in the same household as the SSI recipient, the earnings are treated as earned income. If the spouse or parent is not considered to be living in the same household, any earnings that are made available to the household are treated as unearned income. In the SSI program, more generous exclusions apply to earned income than to unearned income.

For example, under prior policy, if an absent military member whose income and resources were no longer deemed sent wages home, or his or her wages were directly deposited into a bank account held jointly with other family members, income so received by household members was considered to be *unearned* for SSI eligibility and payment computation purposes. In contrast, wages received while the military member resided in the household were considered to be *earned* income for program purposes. Accordingly, prior policy had the effect of disadvantaging certain SSI claimants and recipients.

As a result of section 13733(a) of OBRA 1993, a military spouse's or parent's absence from the SSI household because of an active duty assignment is generally not considered for program purposes; the same deeming rules that apply to "at home" spouses and parents will generally apply to spouses and parents who are temporarily absent from the household due to active duty military service. We propose to amend our regulations at 20 CFR 416.1167 to reflect section 13733(a) of OBRA 1993.

However, the proposed regulation recognizes that circumstances may change and an absent service member who originally intended to continue to live in the deeming household may decide not to do so. Under the proposed regulation, if an absent service member's intent to continue to live in the household changes, deeming stops beginning with the month following the month in which the intent changed.

We assume, absent evidence to the contrary, that the absent service member intends to return to the deeming household upon conclusion of the military assignment. "Evidence to the

contrary" is evidence indicating that the service member does not intend to return to the deeming household upon conclusion of the military assignment. Evidence to the contrary includes (but is not limited to) a signed statement by the "at home" spouse or parent, or by the absent service member, indicating that the service member does not intend to return to the deeming household. Other examples of evidence to the contrary are evidence of divorce or legal separation that will result in the service member not returning to the deeming household. Also, diminished support from the absent service member to the household—e.g., an absent spouse who no longer makes his or her military wages available to the deeming household—may be evidence that the absent service member no longer intends to return to the deeming household.

Electronic Version

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Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget and determined that this rule does not meet the criteria for a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

We certify that this proposed rule will not have a significant economic impact on a substantial number of small entities since this rule 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 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).

Approved: January 7, 1997.

Shirley S. Chater,

Commissioner of Social Security.

For the reasons set out in the preamble, part 416 of chapter III of title 20 of the Code of Federal Regulations is proposed to be amended as follows:

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, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383); sec. 211 of Pub. L. 93-66, 87 Stat. 154 (42 U.S.C. 1382 note).

2. Section 416.1167 is amended by adding new paragraph (c) to read as follows:

§ 416.1167 Temporary absences and deeming rules.

* * * * *

(c) *Active duty military service.* If your ineligible spouse or parent is absent from the household due solely to a duty assignment as a member of the Armed Forces on active duty, we continue to consider that person to be living in the same household as you, absent evidence to the contrary. If we determine that during such an absence, evidence indicates that your spouse or parent should no longer be considered to be living in the same household as you, then deeming will cease. When such evidence exists, we determine the month in which your spouse or parent should no longer be considered to be living in the same household as you and stop deeming his or her income and resources beginning with the month following that month.

Example. Tom is a child who receives SSI. In January 1996, Tom's father leaves the household due solely to an active duty assignment as a member of the Armed Forces. Five months later in June 1996, while Tom's father is still on an active duty assignment, Tom's parents file for divorce. As a result, Tom's father will not be returning to live in Tom's household. Therefore, Tom's father should no longer be considered to be living in the same household with Tom. Beginning July 1, 1996, deeming from Tom's father will cease.

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