

nor an environmental impact statement is required.

### G. Executive Orders

According to Executive Order 12988 (February 5, 1996), agencies must state in clear language the preemptive effect, if any, of new regulations.

The PPPA provides that, generally, when a special packaging standard issued under the PPPA is in effect, "no State or political subdivision thereof shall have any authority either to establish or continue in effect, with respect to such household substance, any standard for special packaging (and any exemption therefrom and requirement related thereto) which is not identical to the [PPPA] standard." 15 U.S.C. 1476(a). A State or local standard may be excepted from this preemptive effect if (1) the State or local standard provides a higher degree of protection from the risk of injury or illness than the PPPA standard; and (2) the State or political subdivision applies to the Commission for an exemption from the PPPA's preemption clause and the Commission grants the exemption through a process specified at 16 CFR Part 1061. 15 U.S.C. 1476(c)(1). In addition, the Federal government, or a State or local government, may establish and continue in effect a non-identical special packaging requirement that provides a higher degree of protection than the PPPA requirement for a household substance for the Federal, State or local government's own use. 15 U.S.C. 1476(b).

Thus, with the exceptions noted above, the proposed rule exempting Sucraid from special packaging requirements would preempt non-identical state or local special packaging standards for the substance.

In accordance with Executive Order 12612 (October 26, 1987), the Commission certifies that the proposed rule does not have sufficient implications for federalism to warrant a Federalism Assessment.

### List of Subjects in 16 CFR Part 1700

Consumer protection, Drugs, Infants and children, Packaging and containers, Poison prevention, Toxic substances.

For the reasons given above, the Commission proposes to amend 16 CFR part 1700 as follows:

### PART 1700—[AMENDED]

1. The authority citation for part 1700 continues to read as follows:

**Authority:** Pub. L. 91–601, secs. 1–9, 84 Stat. 1670–74, 15 U.S.C. 1471–76. Secs 1700.1 and 1700.14 also issued under Pub. L. 92–573, sec. 30(a), 88 Stat. 1231. 15 U.S.C. 2079(a).

2. Section 1700.14 is amended by republishing paragraph (a) introductory text and paragraph (a)(10) introductory text, and by adding new paragraph (a)(10)(xx) to read as follows:

#### § 1700.14 Substances requiring special packaging.

(a) *Substances.* The Commission has determined that the degree or nature of the hazard to children in the availability of the following substances, by reason of their packaging, is such that special packaging meeting the requirements of § 1700.20(a) is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances, and the special packaging herein required is technically feasible, practicable, and appropriate for these substances:

\* \* \* \* \*

(10) *Prescription Drugs.* Any drug for human use that is in a dosage form intended for oral administration and that is required by Federal law to be dispensed only by or upon an oral or written prescription of a practitioner licensed by law to administer such drug shall be packaged in accordance with the provisions of § 1700.15 (a), (b), and (c), except for the following:

\* \* \* \* \*

(xx) Sacrosidase (sucrase) preparations in a solution of glycerol and water.

Dated: June 4, 1998.

**Sadye E. Dunn,**

*Secretary, Consumer Product Safety Commission.*

#### List of Relevant Documents

1. Briefing memorandum from Jaqueline Ferrante, Ph.D., EH, to the Commission, "Petition (PP 97–1) to Exempt Sucraid from the Special Packaging Requirements for Oral Prescription Drugs," May 20, 1998.

2. Memorandum from Jaqueline Ferrante, Ph.D., EH, to Mary Ann Danello, Ph.D., Associate Executive Director, EH, "Sucraid Review" April 1, 1998.

3. Memorandum from Marcia P. Robins, EC, to Jacqueline Ferrante, Ph.D., EH, "Economic Considerations: Petition for Exemption from PPPA Requirements for Oral Prescription Drug Sucraid," April 2, 1998.

[FR Doc. 98–15493 Filed 6–11–98; 8:45 am]

BILLING CODE 6355–01–P

### SOCIAL SECURITY ADMINISTRATION

#### 20 CFR Part 416

RIN 0960–AE77

#### Denial of Supplemental Security Income Benefits for Fugitive Felons and Probation and Parole Violators

**AGENCY:** Social Security Administration.

**ACTION:** Proposed rules.

**SUMMARY:** These proposed regulations would change our rules to reflect an amendment to the Social Security Act (the Act) made by Public Law 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The amendment prohibits payment of Supplemental Security Income (SSI) benefits to certain fugitives and probation and parole violators.

**DATES:** To be sure that your comments are considered, we must receive them no later than August 11, 1998.

**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 Office of Process and Innovation Management, Social Security Administration, L2109 West Low Rise, 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:** Teresa Robinson, Policy Analyst, Office of Program Benefits Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–7960 for information about these rules. For information on eligibility or claiming benefits, call our national toll-free number, 1–800–772–1213.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 202(a) of Public Law 104–193 added section 1611(e)(5) of the Act to preclude eligibility for SSI benefits for certain fugitives and probation and parole violators. In general, section 1611(e)(5) of the Act provides that a person shall not be considered an eligible individual or eligible spouse for purposes of the SSI program for any month during which the person is—

- Fleeing to avoid prosecution for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State);

- Fleeing to avoid custody or confinement after conviction for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State); or

- Violating a condition of probation or parole imposed under Federal or State law.

Section 1611(e)(5) of the Act was effective on August 22, 1996, the date of the enactment of Public Law 104-193, and applies with respect to eligibility for SSI benefits for months beginning in August 1996.

### Proposed Regulations

We are proposing to amend our regulations concerning the SSI program under title XVI of the Act to indicate that a person will not be eligible for SSI benefits under the circumstances described in section 1611(e)(5) of the Act. For this purpose, we propose to make changes to the regulations in subparts B, G, and M of 20 CFR part 416, the part which contains the regulations for the SSI program.

Subpart B of 20 CFR part 416 explains the general rules that we apply in determining a person's eligibility for SSI benefits. In general, a person may be eligible for SSI benefits if he or she is a resident of the United States, has limited income and resources, and is age 65 or older, blind, or disabled.

Section 416.202 lists the basic requirements which must be met in order for a person to be eligible for SSI benefits. We propose to amend § 416.202 to indicate that, in order to be eligible for SSI benefits, a person must not be—

- (1) Fleeing to avoid prosecution for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State);

- (2) Fleeing to avoid custody or confinement after conviction for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State); or

- (3) Violating a condition of probation or parole imposed under Federal or State law.

To make this change, we propose to redesignate existing paragraph (f) of § 416.202 as paragraph (g) and to add a new paragraph (f) which would contain the provisions described above.

The regulations in subpart G of 20 CFR part 416 require an SSI recipient, a representative payee of an SSI recipient, or an applicant for SSI benefits to report events that may affect eligibility or continued eligibility for SSI benefits or the amount of benefits. The regulations explain that a failure to make a timely report of such an event

may result in the assessment of a penalty deduction against an individual's SSI benefits.

Section 416.708 of the regulations describes events which must be reported by an individual receiving SSI benefits, a representative payee for an SSI recipient, or an applicant awaiting a final decision on an application for SSI benefits. Under section 416.722 of the regulations, a penalty deduction will be applied if the SSI applicant, recipient or representative payee, without good cause, fails to report such events, and received benefits that would have been reduced, suspended or terminated if the event had been timely reported. The circumstances described in section 1611(e)(5) of the Act would make such applicant or recipient ineligible for SSI benefits. Therefore, we are proposing to amend § 416.708 by adding a new paragraph (o) to the list of events that must be reported, and that if not reported, may result in the assessment of a penalty deduction. New paragraph (o) would require an SSI applicant or recipient, or a representative for an SSI recipient, to report to us the occurrence of any of the circumstances specified in section 1611(e)(5) of the Act which would make such applicant or recipient ineligible for SSI benefits.

Of course, we recognize that many SSI applicants or recipients may not report their status under section 1611(e)(5) of the Act to us. Thus, we will not depend on the reports of the individual recipient or applicant for information that he or she is fleeing prosecution, custody or confinement or violating a condition of probation or parole. We will place heavy emphasis on other sources of such information in determining whether someone is ineligible under this provision. Our principal source will be records of Federal and State law enforcement agencies and penal institutions, but we will continue to explore *all* other avenues of independent sources of information which will help us decide whether individuals are ineligible, particularly under the provisions of section 1611(e)(5) of the Act.

Subpart M of 20 CFR part 416 provides rules for suspending or terminating an individual's SSI benefit payments when he or she no longer meets the requirements for eligibility for SSI benefits. We are proposing to add new § 416.1339 to this subpart to explain the requirement to suspend payments when an SSI recipient is found to be an individual who falls under one of the provisions of section 1611(e)(5) of the Act.

Proposed § 416.1339 provides that suspension of benefit payments because

an individual is a fugitive or a probation or parole violator, as described above, is effective with the first day of whichever of the following months is earlier—

- The month in which a warrant or order for the individual's arrest or apprehension, an order requiring the individual's appearance before a court or other appropriate tribunal (e.g., a parole board), or a similar order is issued by a court or other duly authorized tribunal on the basis of an appropriate finding that the individual—

- (1) Is fleeing, or has fled, to avoid prosecution for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State);

- (2) Is fleeing, or has fled, to avoid custody or confinement after conviction for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State); or

- (3) Is violating, or has violated, a condition of his or her probation or parole imposed under Federal or State law; or

- The first month during which the individual fled to avoid such prosecution, fled to avoid such custody or confinement after conviction, or violated a condition of his or her probation or parole, if indicated in such warrant or order, or in a decision by a court or other appropriate tribunal.

Proposed § 416.1339 explains that an individual will not be considered to be ineligible for SSI benefits and benefit payments will not be suspended under the provisions of that section for any month prior to August 1996.

Proposed § 416.1339 also explains that benefits will be resumed, if otherwise payable, effective with the first month throughout which the individual is determined to be no longer fleeing to avoid such prosecution, fleeing to avoid such custody or confinement after conviction, or violating a condition of his or her probation or parole.

We also propose to amend the second sentence of § 416.1337(b)(3)(ii) which contains a cross-reference to the sections of subpart M which describe conditions under which SSI benefits are suspended. We propose to revise the cross-reference to include a reference to new § 416.1339.

## Electronic Version

The electronic file of this document is available on the Federal Bulletin Board (FBB) at 9:00 A.M. on the date of publication in the **Federal Register**. To download the file, modem dial (202) 512-1387. The FBB instructions will explain how to download the file and the fee. This file is in WordPerfect and will remain on the FBB during the comment period.

## Regulatory Procedures

### Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules do meet the criteria for a significant regulatory action under Executive Order 12866.

### Regulatory Flexibility Act

We certify that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities because these rules affect only individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96-354, the Regulatory Flexibility Act, as amended by Public Law 104-121, is not required.

### Paperwork Reduction Act

These proposed rules contain a reporting requirement in proposed § 416.708(o). As required by 44 U.S.C. 3507, as amended by section 2 of the Paperwork Reduction Act of 1995, we submitted a copy of the proposed rules to OMB for its review.

Section 416.708(o) of the proposed regulations requires an SSI applicant or recipient, or a representative payee of an SSI recipient, to report to SSA that the applicant or recipient is a fugitive or probation or parole violator as described in that section if such event occurs. The information reported will be used by SSA to deny eligibility for SSI benefits or suspend SSI benefit payments. The respondents are SSI applicants, recipients or representative payees. We estimate that the public reporting burden will be 1 minute per response for 1,000 respondents, resulting in 16.6 annual burden hours. This includes the time it will take to read any instructions and provide the information. If you have any comments or suggestions on this estimate, write to OMB and SSA at the following addresses:

Office of Management and Budget,  
OIRA, Attention: Laura Oliven, Room  
10230, New Executive Office  
Building, Washington, D.C. 20503 and  
Social Security Administration,  
DCFAM, Attention: Nicholas E.

Tagliareni, 1-A-21 Operations  
Building, 6401 Security Boulevard,  
Baltimore, MD 21235.

In addition to your comments on the accuracy of the Agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

(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).

Dated: February 25, 1998.

**Kenneth S. Apfel,**  
*Commissioner of Social Security.*

For the reasons set out in the preamble, subparts B, G, and M of part 416 of chapter III of title 20 of the Code of Federal Regulations are proposed to be amended as follows:

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

### Subpart B to Part 416—[Amended]

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

**Authority:** Secs. 702(a)(5), 1110(b), 1602, 1611, 1614, 1615(c), 1619(a), 1631, and 1634 of the Social Security Act (42 U.S.C. 902(a)(5), 1310(b), 1381a, 1382, 1382c, 1382d(c), 1382h(a), 1383, and 1383c); secs. 211 and 212, Pub. L. 93-66, 87 Stat. 154 and 155 (42 U.S.C. 1382 note); sec. 502(a), Pub. L. 94-241, 90 Stat. 268 (48 U.S.C. 1681 note); sec. 2, Pub. L. 99-643, 100 Stat. 3574 (42 U.S.C. 1382h note).

2. Section 416.202 is amended by redesignating paragraph (f) as paragraph (g) and by adding a new paragraph (f) to read as follows:

#### § 416.202 Who may get SSI benefits.

\* \* \* \* \*

(f) You are not—

(1) Fleeing to avoid prosecution for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which you flee (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State);

(2) Fleeing to avoid custody or confinement after conviction for a crime, or an attempt to commit a crime,

which is a felony under the laws of the place from which you flee (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State); or

(3) Violating a condition of probation or parole imposed under Federal or State law.

\* \* \* \* \*

### Subpart G to Part 416—[Amended]

3. The authority citation for subpart G of part 416 continues to read as follows:

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

4. Section 416.708 is amended by adding a new paragraph (o) to read as follows:

#### § 416.708 What you must report.

\* \* \* \* \*

(o) *Fleeing to avoid criminal prosecution or custody or confinement after conviction, or violating probation or parole.* You must report to us that you are—

(1) Fleeing to avoid prosecution for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which you flee (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State);

(2) Fleeing to avoid custody or confinement after conviction for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which you flee (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State); or

(3) Violating a condition of probation or parole imposed under Federal or State law.

### Subpart M to Part 416—[Amended]

5. The authority citation for subpart M of part 416 continues to read as follows:

**Authority:** Secs. 702(a)(5), 1611-1615, 1619, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382-1382d, 1382h, and 1383).

6. In § 416.1337, the second sentence of paragraph (b)(3)(ii) is revised to read as follows:

#### § 416.1337 Exceptions to the continuation of previously established payment level.

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(ii) \* \* \* However, if the individual's benefits had been correctly suspended as provided in §§ 416.1321 through

416.1330 or § 416.1339 and they should have remained suspended but a benefit that exceeded the dollar limitation was paid, no further payment shall be made to him at this time and notice of the planned action shall not contain any provision regarding continuation of payment pending appeal. \* \* \*

\* \* \* \* \*

7. New § 416.1339 is added to subpart M to read as follows:

**§ 416.1339 Suspension due to flight to avoid criminal prosecution or custody or confinement after conviction, or due to violation of probation or parole.**

(a) *Basis for suspension.* An individual is ineligible for SSI benefits for any month during which he or she is—

(1) Fleeing to avoid prosecution for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State); or

(2) Fleeing to avoid custody or confinement after conviction for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State); or

(3) Violating a condition of probation or parole imposed under Federal or State law.

(b) *Suspension Effective date.* (1) Suspension of benefit payments because an individual is a fugitive as described in paragraph (a)(1) or (a)(2) of this section or a probation or parole violator as described in paragraph (a)(3) of this section is effective with the first day of whichever of the following months is earlier—

(i) The month in which a warrant or order for the individual's arrest or apprehension, an order requiring the individual's appearance before a court or other appropriate tribunal (e.g., a parole board), or similar order is issued by a court or other duly authorized tribunal on the basis of an appropriate finding that the individual—

(A) Is fleeing, or has fled, to avoid prosecution as described in paragraph (a)(1) of this section;

(B) Is fleeing, or has fled, to avoid custody or confinement after conviction as described in paragraph (a)(2) of this section; or

(C) Is violating, or has violated, a condition of his or her probation or parole as described in paragraph (a)(3) of this section; or

(ii) The first month during which the individual fled to avoid such

prosecution, fled to avoid such custody or confinement after conviction, or violated a condition of his or her probation or parole, if indicated in such warrant or order, or in a decision by a court or other appropriate tribunal.

(2) An individual will not be considered to be ineligible for SSI benefits and benefit payments will not be suspended under this section for any month prior to August 1996.

(c) *Resumption of payments.* If benefits are otherwise payable, they will be resumed effective with the first month throughout which the individual is determined to be no longer fleeing to avoid such custody or confinement after conviction, or violating a condition of his or her probation or parole.

[FR Doc. 98-15699 Filed 6-11-98; 8:45 am]

BILLING CODE 4190-29-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-106031-98]

RIN 1545-AW13

#### Trading Safe Harbors

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking and notice of public hearing.

**SUMMARY:** This document contains proposed rules for the treatment of foreign taxpayers trading in derivative financial instruments for their own account. These proposed rules provide that foreign taxpayers who effect transactions in derivative financial instruments for their own accounts are not thereby engaged in a trade or business in the United States if they are not dealers in stocks, securities, commodities or derivatives. These proposed rules affect foreign persons that conduct such trading for their own account either directly through U.S. offices or indirectly through partnerships or other agents. This document also provides notice of a public hearing on these proposed regulations.

**DATES:** Written comments must be received by September 10, 1998. Outlines of oral comments to be discussed at the public hearing scheduled for September 9, 1998, must be received by August 19, 1998.

**ADDRESSES:** Send submissions to: CC:DOM:CORP:R (REG-106031-98),

room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-106031-98), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at <http://www.irs.ustreas.gov/prod/tax-regs/comments.html>. The public hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

#### FOR FURTHER INFORMATION CONTACT:

Milton Cahn of the Office of Associate Chief Counsel (International), (202) 622-3870; concerning submissions and the hearing, LaNita Van Dyke, (202) 622-7190 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 864(b) of the Code provides that the phrase "trade or business within the United States" generally includes the performance of personal services within the United States at any time during the taxable year but, under certain circumstances, does not include trading in stocks, securities, or commodities through an independent agent or for a taxpayer's own account (the "trading safe harbors").

Regulations regarding certain aspects of the trading safe harbors were promulgated in 1972. Since the promulgation of these regulations, the use of derivative financial instruments has increased significantly. This is due in large measure to the overall expansion and growing sophistication of global capital markets. Although guidance concerning the tax treatment of derivatives and notional principal contracts has been issued under other provisions of the Code (see, e.g., §§ 1.446-3, 1.863-7(b)), the section 864(b) regulations have not been modernized to take into account the manner in which taxpayers customarily use derivative transactions.

#### Explanation of Provisions

##### 1. In General

These proposed regulations provide that foreign taxpayers who are not dealers with respect to any derivative transactions, who are not otherwise dealers in stocks, securities, or commodities, and who enter into derivative transactions for their own