

if you are paying the amount charged under a business arrangement. A business arrangement exists when the amount of monthly rent required to be paid equals the current market rental values (see § 416.1101). *Exception:* In the States in the Seventh Circuit (Illinois, Indiana, and Wisconsin), a business arrangement exists when the amount of monthly rent required to be paid equals or exceeds the presumed maximum value described in § 416.1140(a)(1). In those States, if the required amount of rent is less than the presumed maximum value, we will impute as in-kind support and maintenance, the difference between the required amount of rent and either the presumed maximum value or the current market value, whichever is less.

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20 CFR Part 416

[Regulation No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Eligibility; Filing of Applications; Amounts of Benefits; Suspensions and Terminations; Relationship; Prorating SSI Monthly Benefit Payments

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: We have revised our regulations to reflect section 1611(c) of the Social Security Act (the Act), as amended by section 181 of Pub. L. 97-248 (the "Tax Equity and Fiscal Responsibility Act of 1982") which was effective on October 1, 1982. The revised regulations provide that Supplemental Security Income (SSI) benefit payments for the month of initial eligibility will be prorated from the date of application or the date an individual meets all eligibility requirements, whichever is later. They will also provide that the SSI benefit payments for the month after a month or more of ineligibility will be prorated from the date an individual again meets all eligibility requirements.

EFFECTIVE DATES: These regulations are effective the month following the month of publication in the *Federal Register*, but the statutory changes which these regulations reflect were effective October 1, 1982.

FOR FURTHER INFORMATION CONTACT:

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B-3 Operations Building, Baltimore, Maryland 21235, (301) 594-7463.

SUPPLEMENTARY INFORMATION: We published a Notice of Proposed Rulemaking which reflects the provisions of section 1611(c) of the Act, as amended by section 181 of Pub. L. 97-248, on September 5, 1985 (50 FR 36108) and provided a 60-day comment period. Since no comments were received during the comment period, we are publishing these final rules without change.

Prior Law

From January 1974 through September 30, 1982, an individual was paid SSI benefits from the first day of the first month the individual met all eligibility requirements, regardless of what day during that month he or she applied or on what day in the month he or she met the other factors of eligibility (attainment of age 65, onset of disability, etc.) for SSI benefits. Further, a person was also paid SSI benefits from the first day of the month in which he or she reacquired eligibility after a month or more of ineligibility, without regard to what day during the month all factors of eligibility were again met. Consequently, some individuals, when they met all eligibility requirements on a day other than the first day of the month, received an SSI benefit check which included benefits for days before the individual met all eligibility requirements.

Section 181 of Pub. L. 97-248

Section 181 of Pub. L. 97-248 amended section 1611(c) of the Act to change the way the amount of SSI benefits is determined in the month of initial eligibility and in the first month in which an individual again meets all eligibility requirements after a month or more of ineligibility. Effective October 1, 1982, such SSI benefit payments must be prorated.

When SSI benefit payments are prorated, an individual who meets all factors of eligibility on a day other than the first day of the month of initial eligibility or on a day other than the first day of the month after a month or more of ineligibility is paid an amount which is less than a full month's benefits. The amount of benefits for such month is based on the number of days in the month the individual meets all eligibility requirements, beginning with the day in that month the individual first meets the requirements through the end of the month.

The purpose of prorating SSI benefit payments is to ensure that SSI benefits are paid only for the period individuals

meet all eligibility requirements for benefits.

The Provisions of These Regulations; General

These regulations provide that in a month of initial eligibility the amount of the SSI benefit payment is based on the number of days from and including the day on which an individual first meets all of the requirements for eligibility (filing an application is a requirement of eligibility) through the end of the month. When an individual again meets all eligibility requirements after a month or more of ineligibility, the amount of the SSI benefit payment is based on the number of days from and including the day on which an individual again meets all factors of eligibility through the end of month. Under these regulations, prorating will apply to both Federal SSI benefits and federally administered optional State supplementation (OSS). Prorating will not, however, apply to mandatory minimum State supplementation (MMSS).

Subpart B—Eligibility

Section 416.211 currently provides that with certain limited exceptions an individual is not eligible for SSI benefits for any month throughout which he or she is a resident of a public institution. This section has been expanded by these regulations also to provide that an individual, who is a resident of a public institution at the time he or she applies for and first meets all other eligibility factors for SSI benefits, will be considered ineligible until the date on which he or she is no longer a resident of the public institution. That is, the SSI benefit amount for such a month will be prorated based on the date of discharge from the public institution.

We have made this change because the purpose of section 1611(c) is to assure that the amount of the SSI benefits payable for a month of initial eligibility or re-eligibility reflects only the number of days in which individuals establish their need for such benefits by meeting all eligibility requirements. The legislative history of this provision states, "... since SSI is available only to the needy the committee believes that benefits should not be provided for periods prior to the time the individual recognizes his need and requests assistance." S. Rep. No. 97-494, Vol. I, 97th Cong., 2d Sess. 56 (1982).

Section 1611(e) of the Act, which describes the limitations on eligibility for SSI benefits of certain individuals, provides in part that any individual who is a resident of a public institution throughout a month cannot be eligible

for SSI benefits. The proration provisions of section 1611(c) of the Act do not change the SSI eligibility requirements nor do they expressly provide that benefits can be prorated based on the date of discharge from a public institution. On the other hand, section 1611(c) does not specify those situations in which we must prorate SSI benefits. The statute merely specifies the month to which proration applies and the date to use as the basis for determining the prorated amount. Therefore, it is within the Secretary's authority to determine when SSI eligibility is met or restored for purposes of implementing proration.

The purpose of the proration provision as previously noted, is to pay an amount based on the days in the month an individual meets all eligibility requirements for such benefits. In carrying out this purpose, these regulations will prorate benefits from the date of discharge from the public institution both in cases of initial eligibility and reeligibility. During these months the needs of the individual are being met by the public institution until the date of discharge. Therefore, to pay SSI benefits from the date of discharge is within the purpose of section 1611(c).

Subpart C—Filing of Applications

These regulations will amend several sections of Subpart C to implement section 1611(c) as amended by section 181 of Pub. L. 97-248, to make changes that are technical and clarifying, and to make other changes that will make the regulations within Subpart C consistent with each other and to make them as consistent as is practicable with the rules dealing with the filing of applications that we follow in the Old-Age, Survivors, and Disability Insurance (OASDI) programs.

The current rules in § 416.325(b) that discuss the exceptions to the general rule as to when an application is considered filed and in § 416.340 that discuss the use of the date of a written statement as the application filing date are inconsistent. Section 416.325(b) provides that, when an application for SSI benefits is mailed, if using the date we receive the application results in a loss of benefits, we consider the application as being filed on the date shown by a United States postmark. Section 416.340 provides that the date a written statement, such as a letter, is received at a Social Security office (whether or not it was mailed) is to be considered the application filing date if the use of that date will result in eligibility for additional benefits. These regulations make §§ 416.325(b) and 416.340 consistent with one another.

We are revising §§ 416.325(b) and 416.340 to provide that we consider an application for SSI benefits as being filed on the date that the document (application or written statement) is received by us or by someone authorized to act on our behalf. If the application or written statement is mailed to us, we will use the date of mailing as shown by a United States postmark. By amending § 416.340 to permit the use of the postmark date of a written statement as an application filing date we also make the rules of Title XVI more consistent with the rules in the OASDI programs that deal with the filing of applications, and thus eliminate an element of confusion that now exists. Further, a written statement constitutes an intent to file for benefits. Therefore, a written statement should be given the same consideration as a mailed written application.

Sections 416.325(b) and 416.340 provide further that if there is no postmark or if it is unreadable, we will use the date of signature (if dated) or 5 days before the day the signed application or written statement was received, whichever date is later. In effect this revision will also amplify on and make these rules more specific. At present, § 416.325(b) simply indicates that when the postmark is not available or there was no postmark, we consider other evidence of when the application was mailed to us.

Section 416.325(b) is revised to provide that SSI benefits will be paid effective with the date on which an application is filed, if all other factors of eligibility are met on that date. The rules will also provide that benefits cannot be paid for any period before the date of application, when the application is filed on a date after all other factors of eligibility are met.

The revisions to § 416.330, for the most part, reflect changes that were proposed on May 16, 1983, in a separate NPRM that was published in the Federal Register at 48 FR 21967 to implement the provisions of section 306 of Pub. L. 96-265, the Social Security Disability Amendments of 1980. These changes relate to the effective period of applications when a hearing decision on the application is pending. The additional change that we are making in § 416.330 is simply to provide that if an individual meets all requirements of eligibility while an application is in effect, we will pay SSI benefits from the first day (rather than the first month) that he or she meets all the requirements.

We have changed the example in § 416.315 to reflect proration. The

revision to the rules in § 416.320 is not substantive; it corrects a technical error. The revision to the rules in § 416.345 is editorial in nature.

Subparts D—Amount of Benefits and E—Payment of Benefits

Amendments to Subpart E (Payment of Benefits) that implement proration appear in the final rules implementing section 1611(c)(1) as amended by section 2341 of Pub. L. 97-35 which provides for retrospective monthly accounting (RMA). These final rules also include a change to Subpart D.

Section 1611(c) as amended by section 2341 of Pub. L. 97-35 requires, with certain exceptions, the use of RMA in the SSI program. Final regulations dealing with RMA, which were published in the Federal Register on November 26, 1985 (50 FR 48563) included amendments to Subpart D to implement RMA. The final RMA regulations that were published separately, were updated to take account of provisions of section 1611(c) as amended by section 181 of Pub. L. 97-248, so that the rules contained therein will not be incorrect and outdated. For this reason, amendments to §§ 416.501 and 416.502 of Subpart E and § 416.420(b)(1) of Subpart D have not been included in these rules.

Section 416.420 as included in the RMA regulations will provide that in the month of initial eligibility or reeligibility the SSI benefit amount will be prorated according to the number of days in the month that the individual is eligible beginning with the date of application or the date all eligibility requirements are met, whichever is later. Formerly, an application was considered to have been received on the first day of the month in which we received the application and SSI benefits were paid for the entire month.

Section 416.501, as amended in the RMA regulations, will provide that SSI benefits will be prorated and they will be paid beginning on the first day on which the individual meets all requirements for eligibility regardless of whether it is a month of initial eligibility or a month following a month or more of ineligibility. Since it is now possible for members of a couple to become eligible for SSI benefits on different days of the month, this section also provides that each member of a couple may receive different SSI payment amounts for a month if each meets the eligibility requirements on different days of the month.

Section 416.502, which describes the manner in which we pay SSI benefits, as included in the RMA regulations,

provides that SSI benefits payable to an individual will not be paid before the day on which the individual acquires or reacquires eligibility. This section also provides that, unless otherwise indicated, the monthly amount of SSI benefits payable to an eligible couple will be equally divided and paid.

These rules also amend Subpart D to include a new § 416.421 that explains the way we compute prorated benefits. Under these rules, the amount of the SSI benefit payment is prorated based on the date all eligibility factors, except income and resources, are met. For a fuller discussion of the policy on income and resources, see below under the heading "Subpart M—Suspensions and Terminations".

Payment Computation

In determining the amount of SSI benefit payments due for a month in which benefits are to be prorated:

(1) We first compute the amount of the SSI benefit payment which the claimant would receive for the month without proration. (We call this the unprorated benefit.)

(2) We then determine the date in the month on which the claimant meets all factors of eligibility. (We call this the proration date.)

(3) We then count the number of days in the month a claimant meets all eligibility factors, beginning with the proration date and counting through the end of the month. (We call these the benefit days.)

(4) We then multiply the unprorated benefit by the number of benefit days and divide by the number of days in the month for which benefits are being determined. The result is the amount of the SSI benefit payment due for the month in which the benefits are to be prorated.

These steps will be followed in computing the federally administered OSS also. We will do this since it is SSA policy to maintain consistent rules for determining OSS and Federal SSI benefits. We do this under our authority in section 1616(b) of the Act to establish rules, when consistent with the Act, that facilitate efficient administration of both the SSI and OSS programs.

Under these regulations, if an individual is eligible for both a Federal SSI benefit and a federally administered OSS, we compute and prorate the Federal SSI and OSS benefit amounts separately. The results in either computation that include a fraction of a cent will be raised to the next higher cent. We then add the two prorated amounts to get the total payment due for the month.

Under these rules, proration will not apply to federally administered mandatory minimum State supplements (MMSS). Although we have the authority to apply the rules for Federal SSI benefits to the MMSS we can do so only if the rule is consistent with the purpose of MMSS. The purpose of the MMSS is to assure that an individual's total income is not reduced below its December 1973 level. Since the application of proration could result in a reduction in an individual's December 1973 level, it cannot be applied to MMSS.

Subpart M—Suspensions and Terminations

Subpart M provides in part that suspension of SSI benefit payments is required when an individual is alive but no longer meets the requirements of eligibility under title XVI of the Act and termination in accordance with §§ 416.1331–416.1335 does not apply. SSI benefit payments are not resumed until the individual again meets all requirements for eligibility except for the filing of a new application. These rules also provide, upon requesting reinstatement of SSI benefit payments, that an individual is required to submit such evidence as may be necessary to establish that he or she again meets all the requirements for eligibility.

The revisions to the rules in Subpart M provide that the amount of the SSI benefit payments for the first month in which an individual again becomes eligible after a month or more of ineligibility will be prorated. A month of ineligibility for purposes of determining when to prorate the SSI benefit payment for a subsequent month, is a month for which the individual is ineligible for any Federal SSI benefit and any federally administered State supplementation.

When an individual again meets all eligibility requirements after a month or more of ineligibility, under these rules, proration will apply only when an individual reacquires eligibility after being ineligible for at least one of the following reasons:

(1) The individual was a resident of a public institution throughout a month. Eligibility is reacquired as of the date of discharge if all other eligibility requirements are met (see § 416.1325).

(2) The individual failed to comply with the requirement to accept treatment for drug addiction or alcoholism. Eligibility is reacquired as of the earliest date of the first month on which the recipient complies with the required treatment or other direction, and all other eligibility requirements are met (see § 416.1326).

(3) The individual was absent from the United States throughout a month. If the individual is outside the United States for 30

consecutive days or more, the individual is considered as remaining outside the United States until he or she has returned and remained in the United States for 30 consecutive days. Eligibility is reacquired as of the day following the 30th consecutive day of presence in the United States if all other eligibility requirements are met. If the individual is outside the United States for a full calendar month but less than 30 days (i.e., absent during February) eligibility is reacquired as of the day the individual returns to the United States if all other factors of eligibility are met (see § 416.1327).

(4) The individual was not a resident of the United States. Eligibility is reacquired as of the date the individual is a resident of the United States if all other eligibility requirements are met (see § 416.1329).

(5) The individual did not meet the definition of United States citizen, "alien lawfully admitted for permanent residence", or permanent resident of the United States under color of law. Eligibility is reacquired as of the date on which the individual regains his or her status in one of these categories, if all other eligibility requirements are met (see § 416.1329).

(6) The individual failed to comply with the requirement to accept vocational rehabilitation services. Eligibility is reacquired as of the date on which he or she complies if all other eligibility requirements are met (see § 416.1328).

(7) The individual failed to comply with the requirement to file for and obtain other benefits. Eligibility is reacquired as of the date the individual complies, if all other eligibility requirements are met (see § 416.1330).

Under these rules, if the reason that a recipient's benefits were suspended was excess resources, excess income, or failure to comply with a request for information, benefits for the first month that benefits are reinstated will not be prorated. We will not prorate benefits for the first month that benefits are reinstated under each of these circumstances for differing reasons. First, we will not prorate based on income since we count income for the entire month. If an individual has excess income for a month he or she is ineligible for that month. Income cannot be spent down and eligibility established during the month. In addition, using countable income for the entire month is necessary to calculate the prorated benefit amount under section 1611(c)(2)(B) of the Act. Second, we regarded the failure to provide information as being not so much a factor of eligibility as it is a failure to substantiate eligibility based on other factors. These rules clarify that once the information is provided, benefits are reinstated for any previous months the individual met the eligibility requirements. Last, regarding resources, the reason we are not having proration

apply to the first month for which benefits are reinstated after suspension due to excess resources is that, like income, resources are counted for an entire month. Resources cannot be spent down and eligibility established during the month. Also, not prorating in these instances reflects our ongoing concern for effective and efficient administration. Paying benefits for only full months in these situations is simpler, will result in fewer errors and is less costly to administer because it is less complicated than the prorating of benefits in these instances.

Subpart R—Relationships

Current regulations at § 416.1802(d) of Subpart R provide, if an individual gets married during a month, even on the first day of the month, that we will treat that individual as being single until the next month. Alternatively, this section provides that if an individual's marriage ends, even on the first day of the month, we will treat that individual as married until the next month. Thus, an individual's marital status at the beginning of a given month determines whether we consider that individual to be single or married when we compute the amount of that individual's SSI benefits for the month.

Before the proration of benefits pursuant to section 1611(c) as amended by section 181 of Pub. L. 97-248 began, this policy worked effectively at assuring that the SSI benefit which we paid an individual for a month accurately reflected the individual's marital status at the point in time at which he or she became eligible for SSI benefits. This was because an individual was considered to have filed for benefits on the first day of the month and was paid benefits for the full month as long as he or she became eligible to receive benefits at some point during that month.

Now that SSI benefits are being prorated, our regulations can no longer provide this assurance. For this reason we have amended § 416.1802(d) of Subpart R. Under that rule, the current provisions of § 416.1802(d) will remain in effect. However, this section will also include one very limited exception. The exception provides that during the month in which two individuals get married to one another, we will treat them as an eligible couple if each becomes eligible for SSI benefits in such month on a day after the date on which they were married. A very limited number of individuals would be affected by our change; for the individuals that would be affected, the amount of benefits they receive will be less than that which they would be paid if we

treated them as single. However, to treat them as single seems incongruous, since they are married at the point at which their eligibility for SSI benefits is first met. Similarly, if, in the month a marriage ends, each member of the couple becomes eligible for SSI benefits after the date the marriage ends, we will treat them as eligible individuals.

Regulatory Procedures

Executive Order No. 12291

These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major rule. The policies reflected in these rules will generate estimated program savings of \$44 million in fiscal year (FY) 1986 and \$46 million in FY 1987. A one-time administrative cost of \$7.2 million was incurred in FY 1983. Also, implementation of these provisions will result in annual Medicaid savings of \$20 million because the Medicaid program follows SSI policy. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act of 1980

These regulations impose no reporting and recordkeeping requirements requiring clearance by the Office of Management and Budget.

Regulatory Flexibility Act

We certify that these regulations, will not have a significant economic impact on a substantial number of small entities because they primarily affect the States and individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Supplemental Security Income (SSI).

Dated: January 22, 1986.

Martha A. McSteen,
Acting Commissioner of Social Security.

Approved: February 26, 1986.

Otis R. Bowen,
Secretary of Health and Human Services.

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

Part 416 of Title 20 of the Code of Federal Regulations is amended as follows:

Subpart B—Eligibility

1. The authority citation for Subpart B of Part 416 is revised to read as follows:

Authority: Secs. 1102, 1602, 1611, 1614, and 1631 of the Social Security Act as amended, secs. 211 and 212 of Pub. L. 93-66, 49 Stat. 647 as amended, 86 Stat. 1465, 86 Stat. 1446, 86 Stat. 1471, and 86 Stat. 1475 (42 U.S.C. 1302, 1381a, 1382, 1382c, and 1383).

2. In § 416.211, paragraph (a) is revised to read as follows:

§ 416.211 You are a resident of a public institution.

(a) *General rule.* (1) You are not eligible for SSI benefits for any month throughout which you are a resident of a public institution (defined in § 416.201). In addition, if you are a resident of a public institution when you first apply for SSI benefits and meet all other eligibility requirements you cannot be eligible until the day of your release from the institution. The amount of SST benefits for the month of your release will be prorated (see Subpart D) beginning with the date of your release.

(2) By "throughout a month" we mean that you reside in an institution as of the beginning of a month and stay the entire month. If you have been a resident of a public institution, you remain a resident if you are transferred from one public institution to another or if you are temporarily absent for a period of not more than 14 consecutive days. A person also is a resident of an institution throughout a month if he or she is born in the institution during the month and resides in the institution the rest of the month or resides in the institution as of the beginning of a month and dies in the institution during the month.

Subpart C—Filing of Applications

3. The authority citation for Subpart C of Part 416 is revised to read as follows:

Authority: Secs. 1102, 1611 as amended, and 1631 of the Social Security Act, 49 Stat. 647, as amended, 86 Stat. 1466, 86 Stat. 1475 (42 U.S.C. 1302, 1382, 1383).

4. In § 416.315 the example is revised to read as follows:

§ 416.315 Who may sign an application.

Example: Mr. Smith comes to a Social Security office to file an application for SSI disability benefits for Mr. Jones. Mr. Jones, who lives alone, just suffered a heart attack and is in the hospital. He asked Mr. Smith, whose only relationship is that of a neighbor and friend, to file the application for him. We will accept an application

signed by Mr. Smith since it would not be possible to have Mr. Jones sign and file the application at this time. SSI benefits are payable starting with the day an application is filed or the date all other requirements for eligibility are met, whichever is later. If Mr. Smith could not sign an application for Mr. Jones, a loss of benefits would result if it is later determined that Mr. Jones is in fact disabled.

§ 416.320 [Amended]

5. In § 416.320 the last sentence of paragraph (a)(2) is amended by removing the words "or an institution" and adding the words "of an institution" in lieu thereof.

6. In § 416.325 paragraph (b)(1) is revised to read as follows:

§ 416.325 When an application is considered filed.

(b) *Exceptions.* (1) When we receive an application that is mailed, we will use the date shown by the United States postmark as the filing date if using the date the application is received will result in a loss of benefits. If the postmark is unreadable or there is no postmark, we will use the date the application is signed (if dated) or 5 days before the day we receive the signed application, whichever date is later.

7. Section 416.330 is revised to read as follows:

§ 416.330 Filing before the first month you meet the requirements for eligibility.

If you file an application for SSI benefits before the first month you meet all the other requirements for eligibility, the application will remain in effect until we make a final determination on your application unless there is a hearing decision on your application. If there is a hearing decision, your application will remain in effect until the hearing decision is issued.

(a) If you meet all the requirements for eligibility while your application is in effect, we will pay you benefits from the first month that you meet all the requirements. The amount of such benefits is based on the number of days you meet all eligibility requirements beginning with the first day you meet all of the requirements through the end of the month.

(b) If you first meet all the requirements for eligibility after the period for which your application was in effect, you must file a new application for benefits. In this case, we will pay you benefits only from the first month that you meet all the requirements based on the new application. The

amount of such benefits is calculated as in § 416.330(a) above.

8. Section 416.335 is revised to read as follows:

§ 416.335 Filing in or after the month you meet the requirements for eligibility.

When you file an application in the month that you meet all the other requirements for eligibility, your application is good for payment as of the first day in the month that you meet all eligibility requirements. If you file an application after the month you first meet all the other requirements for eligibility, you cannot be paid for any months before the month you filed an application. See §§ 416.340, 416.345 and 416.350 on how a written statement or an oral inquiry made before the filing of the application form may affect the filing date of the application. The amount of SSI benefits you are paid in the first month that you meet all eligibility requirements is based on the number of days you meet all such requirements, starting with the first day on which you meet all eligibility requirements through the end of the month.

9. Section 416.340 is amended by revising the introductory text and revising paragraph (d)(1) to read as follows:

§ 416.340 Use of date of written statement as application filing date.

We will use the date a written statement, such as a letter, an SSA questionnaire or some other writing, is received at a social security office, at another Federal or State office designated by us, or by a person we have authorized to receive applications for us as the filing date of an application for benefits, only if the use of that date will result in your eligibility for additional benefits. If the written statement is mailed, we will use the date the statement was mailed to us as shown by a United States postmark. If the postmark is unreadable or there is no postmark, we will use the date the statement is signed (if dated) or 5 days before the day we receive the written statement, whichever date is later, as the filing date of an application for benefits. In order for us to use your written statement to protect your filing date, the following requirements must be met:

(d)(1) The claimant is alive when the application is filed on a prescribed form, or

10. In § 416.345, paragraph (e)(1) is revised to read as follows:

§ 416.345 Use of date of oral inquiry as application filing date.

(e)(1) The claimant is alive when the application is filed on a prescribed form, or

Subpart D—Amount of Benefits

11. The authority citation for Subpart D of Part 416 is revised to read as follows:

Authority: Secs. 1102, 1611, 1612, and 1631 of the Social Security Act as amended; 49 Stat. 647 as amended, 86 Stat. 1466, 86 Stat. 1488, 86 Stat. 1475 (42 U.S.C. 1302, 1382, 1382a, and 1383).

12. A new § 416.421 is added to read as follows:

§ 416.421 Determination of benefits; computation of prorated benefits.

(a) In the month you are first eligible for benefits, your benefit will be prorated according to the number of days in the month that you are eligible beginning with the date of application or the date on which you meet all eligibility requirements, whichever is later. In the month that you reacquire eligibility after a month or more of ineligibility (see § 416.1321(b)), your benefit will be prorated according to the number of days in the month that you are eligible beginning with the date on which you meet all eligibility requirements.

(b) In determining the amount of your benefit for a month in which benefits are to be prorated, we first compute the amount of the benefit that you would receive for the month as if proration did not apply. We then determine the date on which you meet all factors of eligibility. (The income limits must be met based on the entire month and the resource limit must be as of the first day of the month.) We then count the number of days in the month beginning with the day on which you first meet all factors of eligibility through the end of the month. We then multiply the amount of your unprorated benefit for the month by the number of days for which you are eligible for benefits and divide that figure by the number of days in the month for which your benefit is being determined. The result is the amount of the benefit that you are due for the month in which benefits are to be prorated.

Example. Mr. X applies for SSI on April 16, 1984. He has no income. He first meets all factors of eligibility on April 16, 1984. His Federal benefit rate is \$314 per month. Mr. X's unprorated benefit for April is \$314. The number of days from when he first meets all factors of eligibility (including that day) through the end of the month is 15. The

unprorated benefit (\$314) multiplied by the number of days for which he is eligible for benefits (15) is \$4710. That amount divided by the number of days in April (30) is \$157. This is the amount that Mr. X is due for the month of April.

Subpart M—Suspensions and Terminations

13. The authority citation for Subpart M of Part 416 is revised to read as follows:

Authority: Secs. 1102, 1611–1615, and 1631 of the Social Security Act, as amended, 49 Stat. 647, as amended, 86 Stat. 1466–1477 (42 U.S.C. 1302, 1382–1382d, 1383), unless otherwise noted.

14. In § 416.1321, paragraph(b) is revised to read as follows:

§ 416.1321 Suspensions; general.

(b) *Effect of suspension.* (1) When payments are correctly suspended due to the ineligibility of a recipient, payments shall not be resumed until the individual again meets all requirements for eligibility except the filing of a new application. Such recipient, upon requesting reinstatement, shall be required to submit such evidence as may be necessary (except evidence of age, disability, or blindness) to establish that he or she again meets all requirements for eligibility under this part. Payments to such recipient shall be reinstated effective with the first day such recipient meets all requirements for eligibility except the filing of a new application.

(2) A month of ineligibility for purposes of determining when to prorate the SSI benefit payment for a subsequent month, is a month for which the individual is ineligible for any Federal SSI benefit and any federally administered State supplementation.

15. Section 416.1322 is revised to read as follows:

§ 416.1322 Suspension due to failure to comply with request for information.

(a) Suspension of benefit payments is required effective with the month following the month in which it is determined in accordance with § 416.714(b) that the individual is ineligible for payment due to his or her failure to comply with our request for necessary information. When we have information to establish that benefit payments are again payable, the benefit payments will be reinstated for any previous month for which the individual continued to meet the eligibility requirements of § 416.202. If the reason that an individual's benefits were suspended was failure to comply with

our request for information, the payments for the months that benefits are reinstated will not be prorated under § 416.421.

(b) A suspension of payment for failure to comply with our request for information will not apply with respect to any month for which a determination as to eligibility for or amount of payment can be made based on information on record, whether or not furnished by an individual specified in § 416.704(a). Where it is determined that the information of record does not permit a determination with respect to eligibility for or amount of payment, notice of a suspension of payment due to a recipient's failure to comply with a request for information will be sent in accordance with §§ 416.1336 and 416.1404.

16. In § 416.1323, paragraph (b) is revised to read as follows:

§ 416.1323 Suspension due to excess income.

(b) *Resumption of payments.* If benefits are otherwise payable, they will be resumed effective with the first month in which a recipient's monthly countable income becomes less than the applicable Federal benefit rate (or the sum of that rate and the level for any federally administered State supplementary payment) for that month. If the reason that a recipient's benefits were suspended was excess income, the payment for the first month that benefits are reinstated will not be prorated under § 416.421.

17. In § 416.1324, paragraph (b) is revised to read as follows:

§ 416.1324 Suspension due to excess resources.

(b) *Resumption of payments.* If benefits are otherwise payable, they will be resumed effective with the start of the month after the month in which a recipient's countable resources no longer exceed the limit that applies. If the reason that a recipient's benefits were suspended was excess resources, the payment for the first month that benefits are reinstated will not be prorated under § 416.421.

18. Section 416.1325 is revised to read as follows:

§ 416.1325 Suspension due to status as a resident of a public institution.

(a) Except as provided in § 416.211 (b) and (c), a recipient is ineligible for benefits for the first full calendar month in which he or she is a resident of a public institution (as defined in § 416.201) throughout the calendar month (as defined in § 416.211(a)), and

payments are suspended effective with such first full month. Such ineligibility continues for so long as such individual remains a resident of a public institution.

(b) *Resumption of payments.* If benefits are otherwise payable, they will be resumed effective with the earliest day of the month in which a recipient is no longer a resident of a public institution. See § 416.421. A transfer from one public institution to another or a temporary absence from the institution lasting 14 days or less, however, will not change his or her status as a resident, and the suspension will continue.

19. Section 416.1326, paragraph (b) is revised to read as follows:

§ 416.1326 Suspension for failure to accept treatment for drug addiction or alcoholism.

(b) *Resumption of payments.* When payments are suspended because a disabled recipient who is medically determined to be a drug addict or an alcoholic is not undergoing the required treatment, such ineligibility continues until he or she demonstrates compliance by actually undergoing the required treatment and such compliance is verified by the responsible authority at the institution or facility providing the treatment (see Subpart O of this part). Benefits will be resumed effective with the earliest day of the month on which the recipient complies with the required treatment or other direction, provided such compliance is first verified by the responsible official and provided the recipient otherwise establishes eligibility for benefits for such month. See § 416.421.

Example: Payments to C, a drug addict, were suspended effective May because C failed to report for treatment. On June 25, C reported for treatment and otherwise established eligibility for benefits. The responsible State official reported on August 2 that C had reported June 25 and was complying with the required treatment. SSI payment may be resumed effective with June. The amount of SSI benefits payable for June will be based on the number of days starting with June 25 through the end of the month.

20. Section 416.1327 is revised to read as follows:

§ 416.1327 Suspension due to absence from the United States.

(a) *Suspension effective date.* A recipient is not eligible for SSI benefits if he is outside the United States for a full calendar month. For purposes of this paragraph—

(1) "United States" means the 50 States, the District of Columbia, and the Northern Mariana Islands;

(2) "Day" means a full 24-hour day; and

(3) In determining whether a recipient has been outside the United States for a full calendar month, it must be established whether the recipient is outside the United States for 30 consecutive days or more. If yes, he or she will be treated as remaining outside the United States for a period of 30 consecutive days. When a recipient had been outside the United States, the first period of 30 consecutive days of absence is counted beginning with the day after the day the recipient departs from the United States and ending with the day before the day on which he or she returns to the United States. When a recipient has returned to the United States, the second period of 30 consecutive days starts on the day the individual returned and ends on the 30th day of continuous presence in the United States. Benefits will be suspended effective with the first full calendar month in which a recipient is outside the United States.

(b) *Resumption of payments after absence from the United States.* If benefits are otherwise payable they will be resumed—

(1) Effective with the day following the 30th day of continuous presence in the United States after the recipient's return if the absence was for 30 consecutive days or more.

(2) Effective with the day the recipient returned to the United States, if the absence from the United States was for a full calendar month, but for less than 30 consecutive days (this can occur only for the calendar month of February).

Example 1: Mike left the United States on March 1 and returned on April 1. Counting March 2 through March 31, he was outside the United States for 30 consecutive days; thus he is also deemed to be outside the United States for 30 additional consecutive days. Therefore, for April 1 through April 30, he is deemed to be outside the United States and not eligible for the calendar month of April. Payments start effective May 1.

Example 2: Mary left the United States on April 15 and returned on July 1. Counting April 16 through June 30, she was actually outside the United States and not eligible for the calendar months of May and June. Since she was absent for more than 30 consecutive days, she is deemed to be outside the United States for 30 additional consecutive days. Therefore, for July 1 through July 30, she is deemed to be outside the United States and not eligible for payment until July 31.

21. In § 416.1328, paragraph (b) is revised to read as follows:

§ 416.1328 Suspension due to refusal to accept vocational rehabilitation services.

(b) *Resumption of payments.* If benefits are otherwise payable, they will be resumed effective with the earliest day of the month on which the recipient no longer refuses without good cause to accept vocational rehabilitation services. See § 416.421.

22. Section 416.1329 is revised to read as follows:

§ 416.1329 Suspension due to loss of United States residency, United States citizenship, or status as an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

(a) A recipient ceases to be an eligible individual or eligible spouse, under section 1614(a)(1)(B) of the Act, when he or she ceases to meet the requirement of § 416.202(b) with respect to United States residency, United States citizenship, or status as an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law. Payments are suspended effective with the first month after the last month in which a recipient meets the requirements of § 416.202(b).

(b) *Resumption of payments.* If benefits are otherwise payable, they will be resumed effective with the earliest day of the month on which the recipient again meets both the residence and citizenship or lawfully admitted alien or color of law requirements. See § 416.421.

23. Section 416.1330 is revised to read as follows:

§ 416.1330 Suspension due to failure to apply for and obtain other benefits.

(a) *Suspension effective date.* A recipient ceases to be an eligible individual or eligible spouse when, in the absence of a showing of incapacity to do so, or other good cause, he or she fails within 30 days after notice from the Social Security Administration of probable eligibility, to take all appropriate steps to apply for and, if eligible, to obtain payments such as an annuity, pension, retirement, or disability benefit, including veterans' compensation, old-age, survivors, and disability insurance benefit, railroad retirement annuity or pension, or unemployment insurance benefit. Benefit payments are suspended due to such ineligibility effective with the month in which the recipient was notified in writing of the requirement that he or she file and take all appropriate steps to receive the other benefits. See § 416.210(e).

(b) *Resumption of payment.* If benefits are otherwise payable, they will be resumed effective with the earliest day of the month on which the recipient

takes the necessary steps to obtain the other benefits. See § 416.421.

Subpart R—Relationship

24. The authority citation for Subpart R of Part 416 continues to read as follows:

Authority: Secs. 1102, 1614 (b), (c), and (d), and 1631(d)(1) of the Social Security Act; 49 Stat. 647 as amended, 86 Stat. 1473 and 1476 (42 U.S.C. 1302, 1382c (b), (c) and (d), and 1383(d)(1)).

25. In § 416.1802, paragraph (d) is revised to read as follows:

§ 416.1802 Effects of marriage on eligibility and amount of benefits.

(d)(1) *General rule:* Benefits depend on whether you are married or not married at the beginning of each month. If you get married, even on the first day of a month we will treat you as single until the next month. If your marriage ends, even on the first day of a month, we will treat you as married until the next month.

(2) *Exception:* If you both meet eligibility requirements after your date of marriage or after your marriage ends. If, in the month that you marry, each of you first meets all eligibility requirements after the date of your marriage, we will treat you as an eligible couple for that month. If, in the month that your marriage ends, each of you first meets all eligibility requirements after the date your marriage ends, we will treat you as eligible individuals. (See Subparts D and E regarding how your benefits will be prorated.)

[FR Doc. 86-8826 Filed 4-18-86; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 602

[T.D. 8025]

OMB Control Numbers Under the Paperwork Reduction Act; Returns Relating to Cash Payments in Excess of \$10,000 Received in a Trade or Business

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction.

SUMMARY: This document contains a correction to Treasury Decision 8025, which was published in the Federal Register on May 23, 1985 (50 FR 21239). T.D. 8025 issued temporary regulations

relating to the requirement of reporting cash in excess of \$10,000 received in a trade or business and other issues arising under the Tax Reform Act of 1984.

EFFECTIVE DATES: The correction is effective May 23, 1985.

FOR FURTHER INFORMATION CONTACT: Dale D. Goode of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attn: CC:LR:T). Telephone: 202-566-3935 (not a toll-free number).

Background

On May 23, 1985, the *Federal Register* published (51 FR 21239) Treasury Decision 8025 relating to the reporting of cash in excess of \$10,000 received in a trade or business. This document contains temporary regulations under section 6050I of the Internal Revenue Code of 1954, as added by section 146 of the Tax Reform Act of 1984.

Need for Correction

As published, T.D. 8025 contains a typographical error on page 21243, second column, line 28.

Correction of Publication

Accordingly, the publication of Treasury Decision 8025 which was the subject of FR Doc. 85-11902 is corrected in § 602.101, on page 21243, second column, line 28, by adding the letter "T" immediately after "§ 1.6050I-1" to read "§ 1.6050I-1T".

Paul A. Francis,

Acting Director, Legislation and Regulations Division.

[FR Doc. 86-8876 Filed 4-18-86; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Wage and Hour Division

29 CFR Part 5

Amendments to Federal Contract Labor Standards Regulations Eliminating Daily Overtime Requirements on Federal and Federally Assisted Contracts

Correction

In FR Doc. 86-7726 beginning on page 12264 in the issue of Wednesday, April 9, 1986, make the following correction: On page 12265, in the third column, in § 5.8(a), in the fourth line, "one-" should read "one and one-".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-10-FRL-3003-2]

Approval and Promulgation of State Implementation Plan: Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today approves the amendments to the Oregon State Implementation Plan (SIP) which will modify the Veneer and Plywood Manufacturing Operations Rule (OAR 340-25-315) so as to apply uniform emission limits for veneer dryers throughout the state. In addition, the revision will also delete a section of the rule dealing with the implementation of compliance dates which have already passed.

EFFECTIVE DATE: This action will be effective on June 20, 1986, unless notice is received before May 21, 1986, that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at: Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; Air Programs Branch (10A-85-18), Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101; State of Oregon, Department of Environmental Quality, 522 S.W. Fifth, Yeon Building, Portland, Oregon 97204.

Copy of the State's submittal may be examined at: The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, DC.

Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Ann Williamson, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101. Telephone: (206) 442-8633, FTS: 399-8633.

SUPPLEMENTARY INFORMATION:

I. Background

The Oregon Environmental Quality Commission adopted the existing visible emission limits for veneer dryers in April 1977. In March 1979, standards for particulate mass emissions for wood-fired veneer dryers were adopted. These

rules did not apply to veneer dryers located within "special problem areas," specifically the Portland, Eugene-Springfield, and Medford-Ashland Air Quality Maintenance Areas (AQMA). It was expected that more stringent emission standards would be considered for sources in those areas.

During the period since the adoption of the current standards, veneer dryers within the special problem areas have been subject to the same emission limits as dryers elsewhere in the state. These limits were implemented by application of the "highest and the best practicable treatment and control" criterion and by placing emission limits in the permits for those facilities.

Since 1979, the Oregon Department of Environmental Quality (DEQ) and the Lane Regional Air Pollution Control Authority (LRAPA) have evaluated the need for more stringent controls on veneer dryers in special problem areas. This evaluation considered the needs of the airsheds, the availability of more effective controls, and the performance of controls that have been installed.

In 1983 and 1984, DEQ conducted a comprehensive study of veneer dryer visible emissions. The survey evaluated the performance and effectiveness of emission controls on 121 of the state's 230 veneer dryers. Based on these evaluations, DEQ feels that the more stringent emission standards for special control areas are not needed at this time.

Specific visible emission limits for veneer dryers in some of the special problem areas have already been established. The Specific Air Pollution Control Rules for the Medford AQMA designates visible emission limitations the same as for those dryers outside the special problem areas. LRAPA Rules require similar air emission controls for veneer dryers in the Eugene-Springfield area. At the present time, no visible emission limits apply to veneer dryers in the Portland AQMA. Additionally, no standard has been set for particulate mass emissions from wood-fired veneer dryers located in any of the special problem areas. This rule will serve to provide consistency for emission standards throughout the state.

A total of 21 veneer dryers would be affected by this rule change (including the two wood-fired operations under the jurisdiction of LRAPA). All of these dryers have demonstrated compliance with the current visible emission standards in OAR 340-25-315. This degree of emission control has been achieved by applying the requirement for "highest and best practicable

treatment and control" (OAR 340-25-310) and by placing limits in permits.

Eleven of the 18 affected wood-fired dryers have already been source tested to verify compliance with the mass particulate standard. Based on an extrapolation of visible emission performance of the tested systems, it is expected that the remaining untested dryers would have similar mass emission compliance results. Thus, the impact of the rule modification on the mill operations and the airshed is expected to be minor.

At the present time, DEQ has not identified a need for more stringent veneer dryer emission standards inside the special problem areas. The rule modification will delete the wording "located outside the special problem areas" where reference is made to standards for emissions from veneer dryers (OAR 340-25-315(1)(a)(b) and (c)).

An additional revision to the rule would delete a section on compliance schedules for veneer dryers for which the dates are now passed. The deletion of this section of the rule would have no present or future effect on the implementation or maintenance of veneer dryer emission controls since the dates have passed.

II. Summary of Rulemaking Action

EPA is approving today the amendments to the Oregon SIP which revise the current Veneer and Plywood Operations Rule (OAR 340-25-315) to make the emission limits for veneer dryers consistent throughout the state and to delete any and all references to compliance dates and schedules.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this Federal Register unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective June 20, 1986.

III Procedural Review

The Office of Management and Budget has exempted this rule from the

requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. section 605(b), I certify that this revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709)

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 20, 1986. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Reporting and recording requirements.

Dated: April 10, 1986.

Lee M. Thomas,
Administrator.

Note.—Incorporation by reference of the Implementation Plan for the State of Oregon was approved by the Director of the Office of Federal Register on July 1, 1982.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 Code of Federal Regulations is amended as follows:

Subpart MM—Oregon

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.1970 is revised by adding paragraph (c)(76) as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(76) Revisions to the Oregon State Implementation Plan were submitted by the Director of the Department of Environmental Quality on August 5, 1985. Revisions are: extension of existing emission standards for veneer dryers (OAR 340-25-315) to include sources located in special problem areas, and the deletion of any references to the implementation of compliance dates which have already passed.

(i) Incorporation by Reference.

(a) Letter of August 5, 1985, from the Department of Environmental Quality to EPA and Amendments to OAR 340-25-315, Veneer and Plywood Operations Rule, as adopted by the Environmental Quality Commission on July 19, 1985.

[FR Doc. 86-8637 Filed 4-18-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 280

[OSW-FRL 2911-6]

Hazardous Waste; Notification Requirements for Owners of Underground Storage Tanks; Correction

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: This document corrects the dates for notification by depositors provided in the final rule implementing the notification requirements for owners of underground storage tanks under section 9002 of the Resource Conservation and Recovery Act, as amended (RCRA). These regulations were published on November 8, 1985 (50 FR 46602). This action is necessary so that the period of notification by depositors to owners or operators of underground storage tanks will be in accordance with the period specified in the law (section 9002(a)(5) of RCRA).

DATES: The final rule was effective on November 8, 1985. From December 8, 1985 through June 8, 1987 depositors of regulated substances in underground storage tanks must reasonably notify tank owners or operators of the owners' notification obligations.

ADDRESS: The public docket for this final rule [Docket No. 9002] is located in Room S-212, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424-9346 (toll free) or (202) 382-3000 in Washington, DC; or Virginia Cummings, Office of Underground Storage Tanks (WH-562A), United States Environmental Protection Agency, Washington, DC, 20460, (202) 382-7925.

SUPPLEMENTARY INFORMATION: The following corrections are made on page 46602 in the issue of November 8, 1985:

1. On page 46603, column 1, last paragraph, "From December 9, 1985 through May 9, 1987" is corrected to read, "From December 8, 1985 through June 8, 1987."

2. On page 46613, column 2, 40 CFR 280.3(g) is correctly revised to read as follows:

§ 280.3 Notification requirements.

* * * * *

(g) Beginning on December 8, 1985 through June 8, 1987, any person who deposits regulated substances in an underground storage tank must make reasonable efforts to notify the owner or operator of such tank of the owner's