Charles M. Taylor, Airspace Specialist, System Management Branch, ANE–530, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7532; fax (617) 238–7560.

SUPPLEMENTARY INFORMATION:

History

On March 11, 1994, the FAA published a Notice of Proposed Rulemaking (NPRM) to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revoke Class E airspace at Bozrah, CT (59 FR 11561). The proposal was prompted by the cancellation of the Special Instrument Approach Procedures for Runway 2 and Runway 20 at Gager Field.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal of the FAA. No comments on the proposal were received.

Class E airspace designations for airspace areas extending upward from 700 feet or more above ground level are published in Paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298, July 6, 1993).

The Class E airspace revocation listed in this document will be removed subsequently from the Order.

The Rule

This amendment of part 71 of the Federal Aviation Regulations revokes the Class E airspace at Bozrah, CT. This action is a result of the cancellation of the Special Instrument Approach Procedures for Runway 2 and Runway 20 at Gager Field.

The FAA has determined that this regulation only involves only an established body of technical regulations for which frequent and routine amendments are necessary to keep these regulations 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 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).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; 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 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

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

* * * * *

ANE CT E5 Bozrah, CT [Removed]

* * * * *

Issued in Burlington, Massachusetts, on August 2, 1994.

Francis J. Johns,

Manager, Air Traffic Division, New England Region.

[FR Doc. 94–19402 Filed 8–11–94; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Reg. No. 16]

RIN 0960–AD81

Supplemental Security Income for the Aged, Blind, and Disabled; Eligibility for Children of Armed Forces Personnel Residing Outside the United States Other Than in Foreign Countries

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: This final rule reflects the provisions of section 13734 of the Omnibus Budget Reconciliation Act of 1993, Public Law (Pub. L.) 103–66, which amended section 1614(a)(1)(B)(ii) of the Social Security Act (the Act). Effective November 1, 1993, these provisions remove the restriction that children of armed forces personnel stationed in Puerto Rico or the territories or possessions of the United States may not continue to be eligible for supplemental security income (SSI) benefits while living outside the United States.

EFFECTIVE DATES: This rule is effective on August 12, 1994.

FOR FURTHER INFORMATION CONTACT: Regarding this **Federal Register** document—Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1762; regarding eligibility or filing for benefits—our national toll-free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION: This regulation reflects the provisions of section 13734 of the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103–66, which amended section 1614(a)(1)(B)(ii) of the Act. Effective November 1, 1993, section 1614(a)(1)(B)(ii) provides that SSI benefits may continue to be paid to blind or disabled children who are United States citizens and accompany their military parent(s) to assignments in Puerto Rico or the territories or possessions of the United States, if the children were eligible for SSI benefits for the month before the parent reported for duty overseas. Section 13734 expands coverage to blind or disabled children whose military parents are assigned to permanent duty ashore anywhere outside the United States. Prior legislation (sec. 8009 of Pub. L. 101–239) and implementing regulations allowed the continuation of SSI payments to children whose parents were stationed in foreign countries as of April 1990, but did not permit the continuation of SSI payments to the children of military parents who were based in Puerto Rico or the United States territories or possessions.

We are amending § 416.215 to reflect that eligibility for SSI benefits may continue for a child living outside the United States when the child:

- Is a citizen of the United States;
- Is living with a parent who is a member of the armed forces of the United States assigned to permanent duty ashore outside the United States; and
- Was eligible for an SSI benefit (including any federally administered State supplementary payment) for the month before the parent reported for such duty.

Regulatory Procedures

The Department, even when not required by statute, as a matter of policy generally follows the Administrative Procedure Act (APA) notice of proposed rulemaking (NPRM) and public comment procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the NPRM and public comment procedures in this case. Good cause exists because this regulation is of a technical nature and involves no discretionary policy. Therefore, opportunity for prior comment is unnecessary, and we are issuing these changes to our regulations as a final rule.

Executive Order 12866

This final rule does not meet the criteria for a significant regulatory action under section 3(f) of Executive Order (E.O.) 12866 and, thus, is not subject to Office of Management and Budget (OMB) review under E.O. 12866.

Paperwork Reduction Act of 1980

This regulation imposes no new reporting or recordkeeping requirements subject to OMB clearance.

Regulatory Flexibility Act

We certify that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities because it affects only 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. 93.807, 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: June 27, 1994.

Shirley Chater,

Commissioner of Social Security.

Approved: August 5, 1994.

Donna E. Shalala,

Secretary of Health and Human Services.

Part 416 of Chapter III of title 20 of the Code of Federal Regulations is amended as follows:

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

Authority: Secs. 1102, 1110(b), 1602, 1611, 1614, 1615(c), 1619(a), 1631, and 1634 of the Social Security Act; 42 U.S.C. 1302, 1310(b), 1381a, 1382, 1382c, 1382d(c), 1382h(a), 1383, and 1383c; sec. 211 and 212 of Pub. L. 93–66, 87 Stat. 154 and 155; sec. 502(a) of Pub. L. 94–241, 90 Stat. 268; sec. 2 of Pub. L. 99–643, 100 Stat. 3574.

2. Section 416.215 is amended by revising paragraph (a) to read as follows:

§ 416.215 You are a child of armed forces personnel living overseas.

(a) *General rule.* You may be eligible for continuation of SSI benefits if you live overseas and if—

(1) You are a child as described in § 416.1856;

(2) You are a citizen of the United States;

(3) You are living with a parent as described in § 416.1881 who is a member of the armed forces of the United States assigned to permanent duty ashore outside the United States; and

(4) You were eligible for an SSI benefit (including any federally administered State supplementary payment) for the month before your parent reported for such duty.

* * * * *

[FR Doc. 94–19711 Filed 8–11–94; 8:45 am]

BILLING CODE 4190–29–M

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20 CFR Part 416

[Regulations No. 16]

RIN 0960–AC22

Supplemental Security Income for the Aged, Blind, and Disabled; Continuation of Benefits and Special Eligibility for Certain Severely Impaired Recipients Who Work

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: These regulations reflect changes in the law made by the Employment Opportunities for Disabled Americans Act and the Omnibus Budget Reconciliation Act of 1990. These statutes made permanent, simplified, and liberalized the incentives in the Social Security Act (the Act) for disabled and blind supplemental security income (SSI) recipients who attempt to work. They also liberalized the provision that provides an impairment-related work expense exclusion from the regular SSI income counting rules. In addition, we are making related administrative policy changes necessary to carry out these provisions.

EFFECTIVE DATE: These rules are effective August 12, 1994.

FOR FURTHER INFORMATION CONTACT: Regarding this **Federal Register** document—Richard M. Bresnick, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1758; regarding eligibility or filing for benefits—our national toll-free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION:

General

SSI payments are designed to provide a basic level of support for certain aged, blind, or disabled individuals. Work incentive provisions in the SSI program generally enable blind and disabled individuals to return to work or increase their level of work activity without losing SSI disability or blindness status. Certain work incentives provide them some protection from having their SSI benefits reduced based on their increased earnings. In most States, some provisions also permit continued Medicaid coverage for qualified individuals even if their earnings preclude any SSI cash payments.

Under the law in effect before July 1, 1987, regular SSI benefits (section 1611 benefits) were payable to a disabled SSI recipient who worked at the substantial gainful activity (SGA) level after a 9-month trial work period. Work at the SGA level resulted in the cessation of disability status and, thus, an inability to requalify for regular SSI benefits without filing a new application if the work continued after a 15-month extended period of eligibility (EPE). Section 1619, in effect from January 1, 1981, through June 30, 1987, permitted payment of special SSI cash benefits (section 1619(a) benefits) to disabled recipients who lost eligibility for section 1611 benefits because of SGA. Section 1619(b) provided special SSI eligibility status for Medicaid purposes to working disabled or blind individuals whose earnings made them ineligible for SSI cash payments. Transitions between the various statuses, particularly after the EPE, were complicated. Many felt that the complexity deterred people from participating in the section 1619 program.

Amendments to section 1619 addressed these concerns. Sections 2 and 4 of the Employment Opportunities for Disabled Americans Act, Public Law (Pub. L.) 99–643, effective November 10, 1986 and July 1, 1987, respectively, made permanent and provided several improvements to sections 1619 (a) and (b). Section 5032 of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101–508, effective May 1, 1991, further amended section 1619(b) by eliminating the 65-year age limit for special SSI eligibility status for Medicaid purposes. Section 5033 of Pub. L. 101–508, effective December 1, 1990, liberalized the impairment-related work expense exclusion of section 1612(b)(4)(B)(ii) of the Act.

These regulations were published in the **Federal Register** (58 FR 52458) as a notice of proposed rulemaking (NPRM) on October 8, 1993. Interested parties were given 60 days to submit comments. The comment period closed on December 7, 1993. We received two letters containing comments. One commenter supported the proposed changes without modification. The other generally supported the proposed changes, but suggested that we add one clarifying statement. We explain below in the Public Comments section of this preamble the nature of those comments and how we accommodated the suggested revision. This commenter also discussed matters that were not relevant to the proposed regulations. We referred those matters to the appropriate component of the Social Security Administration and do not address them in this preamble. In addition, on December 3, 1993 (58 FR 63888) we published final rules which added a new paragraph (c)(1) to § 416.1112 governing the exclusion from earned income of the earned income tax credit refund an individual receives, and redesignated existing paragraphs of § 416.1112. Therefore, we have revised the references to paragraphs of § 416.1112 in these final rules to be consistent with the new paragraph numbering. Further, we inadvertently did not provide a complete reference to all the relevant income exclusions in § 416.1112 as we apply them in determining the State threshold amount for purposes of determining section 1619(b) eligibility. We have made this technical correction to § 416.269 of these final rules. Therefore, except for adding the requested clarifying statement, updating regulatory references, and correcting typographical and technical errors in the NPRM, we adopted the rules as proposed.

Regulatory Changes

1. Expiration Date of Section 1619

We revised §§ 416.260 and 416.261 to remove the expiration date to reflect the change made by section of Pub. L. 99–643 that made section 1619 permanent.

2. Section 1619(a)—Special SSI Cash Benefits

Section 4 of Pub. L. 99–643 amended section 1619(a) of the Act to provide special SSI cash benefits to an individual whose earnings exceed the amount designated by the Secretary of Health and Human Services (the Secretary) to represent SGA despite a disabling impairment, provided that individual meets certain eligibility requirements. We discuss below the changes we made to reflect the changes in the law, as well as related policy changes.

We revised § 416.262(a) to reflect that an individual must have been eligible to receive a regular SSI benefit or federally administered State supplementary payment based on disability in "a," rather than "the," month before the month for which section 1619(a) eligibility is being determined. The statutory change removed the former requirement that the individual must have been eligible for regular SSI benefits, special SSI cash benefits, or State supplementary payments in the month immediately prior to the month of eligibility under section 1619(a). The month the individual was eligible for a regular SSI benefit or federally administered State supplementary payment may not be in a prior period of eligibility which has terminated according to §§ 416.1331–416.1335.

We revised § 416.262(d) to reflect the statutory change that an individual must "meet," rather than "continue to meet," all nondisability requirements for SSI eligibility in the month for which the determination is being made.

These two changes permit eligibility for special SSI cash benefits following one or more months of suspension.

We revised §§ 416.260, 416.261, and 416.262(b) to reflect that an individual is eligible for benefits under section 1619(a) when his or her "gross earned income," rather than "earnings" as described in § 416.1110, exceeds the designated SGA amount (currently $500 per month). Because actual monthly determinations of SGA are not required before an individual moves from section 1611 to 1619(a) status, we will use gross earned income rather than earnings. This is consistent with Congress' intent, as shown in the legislative history of section 1619, to simplify transitions between benefit statuses, limit actual determinations of eligibility, and ease administration of the section 1619 program. In response to a public comment, we added a new sentence to § 416.260 clarifying that the calculation of this gross earned income amount is not to be considered an actual SGA determination. We discuss this clarification below. For disabled individuals otherwise eligible for a cash benefit, the only distinction between regular benefit status under section 1611 and section 1619(a) status will be whether or not their gross earned income exceeds the SGA level. Section 1619(a) does not apply to the blind because earnings of blind individuals are not subject to an SGA test under the SSI program.

3. Section 1619(b)—Special SSI Eligibility Status

Section 4 of Pub. L. 99–643 and section 5032 of Pub. L. 101–508 amended section 1619(b) of the Act to provide changes in the eligibility requirements for special SSI eligibility status. We discuss below the changes we made to reflect the changes in the law, as well as related policy changes.

We revised § 416.264 to provide that special SSI eligibility status applies for purposes of reacquiring status as eligible for regular or special SSI cash benefits, as well as establishing or maintaining eligibility for Medicaid.

We revised § 416.265 to remove the 65-year age limit for section 1619(b) eligibility status effective May 1, 1991.

We also revised § 416.265 to reflect that an individual must have been eligible for a regular SSI benefit or a federally administered State supplementary payment in "a month before the month," rather than "the month before the first month," for which eligibility for special SSI eligibility status is being determined. The month the individual was eligible for a regular SSI benefit or federally administered State supplementary payment may not be in a prior period of eligibility which has terminated according to §§ 416.1331–416.1335.

We revised § 416.265(b) to reflect that an individual, except for earnings, must "meet," rather than "continue to meet," all nondisability requirements for SSI eligibility in the month for which the determination is being made.

These two changes permit special SSI eligibility status for Medicaid purposes following one or more months of suspension.

We revised § 416.265(d) to add that we will consider publicly funded attendant care services, in addition to SSI benefits, federally administered State supplementary payments, and Medicaid, when determining whether an individual's earnings are sufficient to allow the individual to provide a reasonable equivalent of the benefits which would be available if the individual did not have those earnings.

We revised § 416.268 to add that an individual may establish the need for Medicaid eligibility to continue working (see § 416.265(c)) by showing that Medicaid benefits would be needed to pay for unexpected medical expenses in the next 12 months. Previously, we considered only past or expected Medicaid use. This policy change adds consideration of the individual's ability to pay for unexpected medical expenses to the factors that can meet the statutory provision that termination of Medicaid would seriously inhibit the individual's ability to continue working. We believe the proposed change is consistent with the intent of Pub. L. 99–643 because such individuals, if not accorded section 1619(b) status, might be forced to stop working in order to get Medicaid to pay for unexpected medical expenses. This change enables individuals without recurring medical expenses or expectation of expenses to meet the requirement if they cannot provide for their own medical care.

We also deleted former paragraphs (b) and (c) of § 416.268, which required an individual's signed statement about use or expected use of Medicaid and verification, as necessary, of past services with the service providers or the State agency administering the Medicaid program. This change permits us to determine the need for Medicaid in order to continue working based on information provided by the individual. Our operational experience shows that the individual's knowledge about use or expected use of Medicaid is almost always valid and, therefore, verification results in unnecessary administrative burdens and costs.

We revised § 416.269 to reflect the statutory expansion of the factors considered in determining the sufficiency of a person's earnings to provide a reasonable equivalent of the benefits which would be available absent those earnings (see § 416.265(d)). We determine insufficiency of earnings by comparing actual and/or anticipated gross earnings for the 12-month period, beginning with the month for which special SSI eligibility status is being determined, with a threshold amount for the individual's State of residence. We determine the threshold amount using the amount of gross earnings that it would take to reduce to zero the Federal SSI benefit and State supplementary payment for an individual with no other income living in his or her own household and the average Medicaid expenditures for disabled SSI cash recipients for the State of residence. If an individual's gross earnings exceed the State threshold amount, we do a second comparison to compare the earnings with an individualized threshold. In making this determination, we will consider any amounts excluded as impairment-related work expenses or work expenses of the blind, amounts used or set aside for use under an approved plan for achieving self-support, and the value of any publicly funded attendant care services.

We also added § 416.269(d), which explains that we will consider the value of attendant care services for purposes of sufficiency of earnings determinations if the services are provided by a paid attendant, needed to assist with work-related and/or individual functions, and paid from Federal, State, or local funds.

We also added § 416.269(e) to reflect that we will base determinations of sufficiency of earnings on information and data updated no less frequently than annually.

Also, because § 416.269 predated retrospective monthly accounting, we further revised it. For sufficiency of earnings determinations, we will use the calendar month, rather than quarter, for which we are determining eligibility for special SSI eligibility status as the beginning of the 12-month period.

4. Impairment-Related Work Expense Change

In enacting Pub. L. 99–643, Congress recognized that disabled individuals who make work attempts may not be able to follow a steady progression from regular SSI status under section 1611 to special SSI cash benefit status under section 1619(a), to special SSI eligibility status under section 1619(b), and then to a status of complete independence. In reality, such individuals tend to have setbacks which may cause a drop in earnings and, therefore, a change in eligibility status. According to the legislative history of Pub. L. 99–643, it was Congress' intent to provide for easy transition, in either direction, between the various categories of benefits. Therefore, we revised § 416.1112(c)(6) to facilitate easier movement between different benefit statuses. For periods prior to December 1, 1990, an individual who remained continuously eligible for a benefit under section 1611, 1616 (if supplementation is federally administered), 1619(a), or 1619(b), continued to qualify for the impairment-related work expense exclusion in determining financial eligibility for SSI. Also, to reflect section 5033 of Pub. L. 101–508, for periods after November 30, 1990, we removed the requirement that an individual must establish eligibility without benefit of the impairment related work expense exclusion.

5. Administrative Actions Under Section 1619(a)

In addition to the changes already discussed, these regulations contain changes which we believe are consistent with the legislative intent of Pub. L. 99–643 to simplify administration of section 1619 and facilitate transition among the various categories of benefits. We revised §§ 416.1402 and 416.1403 with regard to initial determinations in order to state our policy on determinations involving transitions between sections 1611, 1619(a), and 1619(b).

We revised § 416.1402(a) to clarify that initial determinations regarding SSI benefits include, but are not limited to, determinations about eligibility for or the amount of SSI benefits or special SSI cash benefits, except actions solely involving transitions to eligibility between these types of benefits. We revised § 416.1402(b) to clarify that the administrative actions of "suspension" and "termination" pertain to special SSI eligibility status under section 1619(b) as well as SSI cash benefits under section 1611 or section 1619(a).

We deleted former § 416.1402(h), which provided that a determination about whether an individual is eligible for special SSI cash benefits under § 416.262 (section 1619(a) status) is an initial determination, and redesignated the subsequent paragraphs. The change recognizes that transition alone from eligibility for regular SSI benefits under section 1611 to eligibility for special SSI cash benefits under section 1619(a) and vice versa generally has little practical effect on an individual. The change allows movement between the statuses to be made with fewer steps, saving time and administrative expense. We believe this change is consistent with Congress' intent to simplify transitions between benefit statuses.

In addition, we revised § 416.1403(a) to include in the list of administrative actions that are not initial determinations, transitions from section 1611 to 1619(a) eligibility or section 1619(a) to 1611 eligibility. If a recipient's section 1611 or 1619(a) benefits are adversely affected (i.e., reduced, suspended, or terminated) for a reason unrelated to his or her medical condition at the time of the shift, such planned action(s) will continue to be subject to advance notice of benefit reduction, suspension, or termination and be covered as initial determinations under § 416.1402(b). If an individual's benefit amount increases, an initial determination is made under § 416.1402(a). Determinations about an individual's disability are also initial determinations under § 416.1402.

Redesignated § 416.1402(h) (former § 416.1402(i)) provides that a determination about whether an individual is eligible for special SSI eligibility status under § 416.265 is an initial determination. Section 416.265 describes the eligibility requirements for special SSI eligibility status under section 1619(b).

Because we must make a threshold calculation and a finding that an individual needs Medicaid to continue working in order to determine eligibility under section 1619(b), we will continue to provide an initial determination. Movement from special SSI eligibility status under section 1619(b) back to regular SSI benefit status under section 1611 or special SSI cash benefit status under section 1619(a) is defined to be an initial determination under § 416.1402(a).

Public Comments

The following is a summary of the substantive comments we received on the proposed rules and our response to them.

Comment: The commenter was concerned about using gross earned income, rather than actual countable earnings, in transitions between benefit statuses as described in §§ 416.260, 416.261, and 416.262(b). The commenter was not so much concerned with using the gross earned income amount at the time of the transition between benefit statuses, but rather how that amount might be interpreted in other determinations in the SSI program. The commenter suggested adding a clarifying statement indicating that the gross income amount used in the transition process is not to be considered an SGA determination.

Response: Although in the preamble to the proposed rules (58 FR 52458, 52459) we stated that we would not make actual SGA determinations on whether an individual is eligible for section 1619 status, we agree with the suggestion to add the clarifying statement to these final rules. We have added the statement to § 416.260, which deals specifically with transitions between benefit statuses under sections 1611 and 1619.

Regulatory Procedures

Executive Order (E.O.) 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these rules do not meet the criteria for a significant regulatory action under E.O. 12866. Thus, they were not subject to OMB review.

All program changes reflected in these regulations related to Pub. L. 99–643 and Pub. L. 101–508 were implemented on their respective effective dates. As of December 1993, there were 20,028 section 1619(a) participants and 35,299 section 1619(b) participants.

Paperwork Reduction Act

These regulations contain information collection requirements in § 416.268. As required by the Paperwork Reduction Act of 1980, 44 U.S.C. 3504(h), we submitted a copy to OMB for its review and we received clearance to collect this information under OMB No. 0960–0267.

Public reporting burden for this collection of information is estimated to average 3 minutes per response. This includes the time it will take to read the instructions, gather the necessary facts, and provide the information. Since we estimate that 25,000 SSI recipients will provide this information, the total annual burden is estimated to be 1,250 hours.

Organizations or individuals desiring to submit comments on these information collection requirements should direct them to the Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, Attention: Reports Clearance Officer, 1–A–21 Operations Building, and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attention: Desk Officer for HHS.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only individuals and States. 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. 93.807, Supplemental Security Income)

List of Subjects in 20 CFR Part 416

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

Dated: June 27, 1994.

Shirley Chater,

Commissioner of Social Security.

Approved: August 5, 1994.

Donna E. Shalala,

Secretary of Health and Human Services.

Subparts B, K, and N of part 416 of chapter III of title 20 of the Code of Federal Regulations are amended as follows:

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

Authority: Secs. 1102, 1110(b), 1602, 1611, 1614, 1615(c), 1619(a), 1631, and 1634 of the Social Security Act; 42 U.S.C. 1302, 1310(b), 1381a, 1382, 1382c, 1382d(c), 1382h(a), 1383, and 1383c; secs. 211 and 212 of Pub. L. 93–66, 87 Stat. 154 and 155; sec. 502(a) of Pub. L. 94–241, 90 Stat. 268; and sec. 2 of Pub. L. 99–643, 100 Stat. 3574.

2. The undesignated center heading immediately above § 416.260 is revised to read as follows:

Special Provisions for People Who Work Despite a Disabling Impairment

3. Section 416.260 is revised to read as follows:

§ 416.260 General.

The regulations in §§ 416.260 through 416.269 describe the rules for determining eligibility for special SSI cash benefits and for special SSI eligibility status for an individual who works despite a disabling impairment. Under these rules an individual who works despite a disabling impairment may qualify for special SSI cash benefits and in most cases for Medicaid benefits when his or her gross earned income exceeds the applicable dollar amount which ordinarily represents SGA described in § 416.974(b)(2). The calculation of this gross earned income amount, however, is not to be considered an actual SGA determination. Also, for purposes of determining eligibility or continuing eligibility for Medicaid benefits, a blind or disabled individual (no longer eligible for regular SSI benefits or for special SSI cash benefits) who, except for earnings, would otherwise be eligible for SSI cash benefits may be eligible for a special SSI eligibility status under which he or she is considered to be a blind or disabled individual receiving SSI benefits. We explain the rules for eligibility for special SSI cash benefits in §§ 416.261 and 416.262. We explain the rules for the special SSI eligibility status in §§ 416.264 through 416.269.

4. The undesignated center heading immediately above § 416.261 is removed.

5. Section 416.261 is amended by revising the first sentence to read as follows:

§ 416.261 What are special SSI cash benefits and when are they payable.

Special SSI cash benefits are benefits that we may pay you in lieu of regular SSI benefits because your gross earned income in a month of initial eligibility for regular SSI benefits exceeds the amount ordinarily considered to represent SGA under § 416.974(b)(2).

* * *

6. Section 416.262 is amended by revising the introductory text and paragraphs (a), (b), and (d) to read as follows:

§ 416.262 Eligibility requirements for special SSI cash benefits.

You are eligible for special SSI cash benefits if you meet the following requirements—

(a) You were eligible for a regular SSI benefit or a federally administered State supplementary payment (see § 416.2001) in a month before the month for which we are determining your eligibility for special SSI cash benefits as long as that month was not in a prior period of eligibility which has terminated according to §§ 416.1331 through 416.1335;

(b) In the month for which we are making the determination, your gross earned income exceeds the amount ordinarily considered to represent SGA under § 416.974(b)(2);

(c) * * *

(d) You meet all the nondisability requirements for eligibility for SSI benefits (see § 416.202).

7. Section 416.264 is revised to read as follows:

§ 416.264 When does the special SSI eligibility status apply.

The special SSI eligibility status applies for the purposes of establishing or maintaining your eligibility for Medicaid. For these purposes we continue to consider you to be a blind or disabled individual receiving benefits even though you are in fact no longer receiving regular SSI benefits or special SSI cash benefits. You must meet the eligibility requirements in § 416.265 in order to qualify for the special SSI eligibility status. Special SSI eligibility status also applies for purposes of reacquiring status as eligible for regular SSI benefits or special SSI cash benefits.

8. Section 416.265 is amended by revising the heading to the section, introductory paragraph and paragraphs (b) and (d) to read as follows:

§ 416.265 Requirements for the special SSI eligibility status.

In order to be eligible for the special SSI eligibility status, you must have been eligible to receive a regular SSI benefit or a federally administered State supplementary payment (see § 416.2001) in a month before the month for which we are making the special SSI eligibility status determination. The month you were eligible for a regular SSI benefit or a federally administered State supplementary payment may not be in a prior period of eligibility which has been terminated according to §§ 416.1331 through 416.1335. For periods prior to May 1, 1991, you must be under age 65. Also, we must establish that:

(a) * * *

(b) Except for your earnings, you meet all the nondisability requirements for eligibility for SSI benefits (see § 416.202);

(c) * * *

(d) Your earnings after the exclusions in § 416.1112(c) (6), (8), and (9) are not sufficient to allow you to provide yourself with a reasonable equivalent of the benefits (SSI benefits, federally administered State supplementary payments, Medicaid, and publicly-funded attendant care services, including personal care assistance under § 416.269(d) which would be available to you if you did not have those earnings (see § 416.269).

9. The undesignated center heading immediately above § 416.267 is removed.

10. Section 416.268 is revised to read as follows:

§ 416.268 What is done to determine if you must have Medicaid in order to work.

For us to determine that you need Medicaid benefits in order to continue to work, you must establish:

(a) That you are currently using or have received services which were paid for by Medicaid during the period which began 12 months before our first contact with you to discuss this use; or

(b) That you expect to use these services within the next 12 months; or

(c) That you would need Medicaid to pay for unexpected medical expenses in the next 12 months.

11. Section 416.269 is revised to read as follows:

§ 416.269 What is done to determine whether your earnings are too low to provide comparable benefits and services you would receive in the absence of those earnings.

(a) *What we determine.* We must determine whether your earnings are too low to provide you with benefits and services comparable to the benefits and services you would receive if you did not have those earnings (see § 416.265(d)).

(b) *How the determination is made.* In determining whether your earnings are too low to provide you with benefits and services comparable to the benefits and services you would receive if you did not have those earnings, we compare your anticipated gross earnings (or a combination of anticipated and actual gross earnings, as appropriate) for the 12-month period beginning with the month for which your special SSI eligibility status is being determined to a threshold amount for your State of residence. This threshold amount consists of the sum for a 12-month period of two items, as follows:

(1) The amount of gross earnings including amounts excluded under § 416.1112(c) (4), (5) and (7) that would reduce to zero the Federal SSI benefit and the optional State supplementary payment for an individual with no other income living in his or her own household in the State where you reside. This amount will varry from State to State depending on the amount of the State supplementary payment; and

(2) The average expenditures for Medicaid benefits for disabled and blind SSI cash recipients, including recipients of federally administered State supplementary payments only, in your State of residence.

(c) *How the eligibility requirements are met.*

(1) You meet the requirements in § 416.265(d) if the comparison shows that your gross earnings are equal to or less than the applicable threshold amount for your State, as determined under paragraphs (b) (1) and (2) of this section. However, if the comparison shows that these earnings exceed the applicable threshold amount for your State, we will establish (and use in a second comparison) an individualized threshold taking into account the total amount of:

(i) the amount determined under paragraph (b)(1) of this section that would reduce to zero the Federal SSI benefit and State supplementary payment for your actual living arrangement;

(ii) the average Medicaid expenditures for your State of residence under paragraph (b)(2) of this section or, if higher, your actual medical expenditures in the appropriate 12-month period;

(iii) any amounts excluded from your income as impairment-related work expenses (see § 416.1112(c)(6)), work expenses of the blind (see § 416.1112(c)(8)), and income used or set aside for use under an approved plan for achieving self support (see § 416.1112(c)(9)); and

(iv) the value of any publicly-funded attendant care services as described in paragraph (d) of this section (including personal care assistance).

(2) If you have already completed the 12-month period for which we are determining your eligibility, we will consider only the expenditures made in that period.

(d) *Attendant care services.* Expenditures for attendant care services (including personal care assistance) which would be available to you in the absence of earnings that make you ineligible for SSI cash benefits will be considered in the individualized threshold (as described in paragraph (c)(1) of this section) if we establish that they are:

(1) Provided by a paid attendant;

(2) Needed to assist with work-related and/or personal functions; and

(3) Paid from Federal, State, or local funds.

(e) *Annual update of information.* The threshold amounts used in determinations of sufficiency of earnings will be based on information and data updated no less frequently than annually.

12. The authority citation for subpart K of part 416 is revised to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93–66, 87 Stat. 154.

13. Section 416.1112 is amended by revising paragraph (c)(6) to read as follows:

§ 416.1112 Earned income we do not count.

* * * * *

(c) * * *

(6) Earned income you use to pay impairment-related work expenses described in § 416.976, if you are disabled (but not blind) and under age 65 or you are disabled (but not blind) and received SSI as a disabled individual (or received disability payments under a former State plan) for the month before you reached age 65.

(i) For periods prior to December 1, 1990, you must be able, however, to establish your initial eligibility for Federal benefits without the use of the impairment-related work expense exclusion. Once you establish your initial eligibility without the use of the impairment-related work expense exclusion, the exclusion applies for determining your eligibility for all subsequent consecutive months for which you are eligible for regular SSI benefits, federally administered optional State supplementary payments, special SSI cash benefits or special SSI eligibility status. If, in a subsequent month, you are not eligible for any of these benefits, you cannot reestablish your eligibility for Federal SSI benefits or federally administered optional State supplementary payments before December 1, 1990, using the impairment-related work expense exclusion.

(ii) For periods after November 30, 1990, you may also use the impairment-related work expense exclusion to establish initial eligibility and reeligibility following a month in which you were not eligible for regular SSI benefits, a federally administered optional State supplementary payment, special SSI cash benefits or special SSI eligibility status.

* * * * *

14. The authority citation for subpart N of part 416 is revised to read as follows:

Authority: Secs. 1102, 1631, and 1633 of the Social Security Act; 42 U.S.C. 1302, 1383, and 1383b.

15. Section 416.1402 is amended by revising paragraphs (a) and (b), removing paragraph (h), and redesignating paragraphs (i) through (n) as paragraphs (h) through (m), respectively, to read as follows:

§ 416.1402 Administrative actions that are initial determinations.

* * * * *

(a) Your eligibility for, or the amount of, your supplemental security income benefits or your special SSI cash benefits under § 416.262, except actions solely involving transitions to eligibility between these types of benefits (see §§ 416.1403 (a)(13) and (a)(14)).

(b) Suspension, reduction, or termination of your SSI benefits or special SSI cash benefits (see §§ 416.261 and 416.262) or suspension or termination of your special SSI eligibility status (see §§ 416.264 through 416.269);

* * * * *

16. Section 416.1403 is amended by adding new paragraphs (a)(13) and (a)(14) to read as follows:

§ 416.1403 Administrative actions that are not initial determinations.

(a) * * *

(13) Transition to eligibility for special SSI cash benefits (§ 416.262) in a month immediately following a month for which you were eligible for regular SSI benefits; and

(14) Transition to eligibility for regular SSI benefits in a month immediately following a month for which you were eligible for special SSI cash benefits (§ 416.262).

* * * * *

[FR Doc. 94–19712 Filed 8–11–94; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 384

Under Secretary of Defense for Acquisition and Technology; Organizational Charter

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Final rule; amendment.

SUMMARY: On July 11, 1994, the Department of Defense published a final rule in the **Federal Register** (59 FR 35262). This document is published as ad administrative amendment for clarity.

EFFECTIVE DATE: June 8, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. R. Kennedy, Office of Organizational and Management Planning, telephone 703–697–1142.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 384

Organization and functions (Government agencies).

Accordingly, 32 CFR Part 384 is amended as follows:

PART 384—UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND TECHNOLOGY

1. The authority citation for part 384 continues to read as follows:

Authority: 10 U.S.C. 113 and 133.

Appendix A to Part 384 [Amended]

2. In Appendix A to Part 384—Delegations of Authority, Section I.21., "2340b(c)" is revised to read "2350b.(c)."

Dated: August 8, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–19671 Filed 8–11–94; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD08–94–006]

RIN 2115–AE84

Regulated Navigation Area; Mississippi River, Miles 88 to 240 above Head of Passes

AGENCY: Coast Guard, DOT.

ACTION: Interim rule; reopening of comment period and public hearing.