

not meet the RFA's definition of a small entity.<sup>12</sup> Further, it would be easier for any small entity to serve a pleading on a regulated company if that company had a specific official designated to receive service. Therefore, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

#### VI. Comment Procedures

The Commission invites interested persons to submit written comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss.

The original and 14 copies of such comments must be received by the Commission before 5:00 p.m. October 4, 1999. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426 and should refer to Docket No. RM99-9-000.

In addition to filing paper copies, the Commission encourages the filing of comments either on computer diskette or via Internet E-Mail. Comments may be filed in the following formats: WordPerfect 8.0 or below, MS Word Office 97 or lower version, or ASCII format.

For diskette filing, include the following information on the diskette label: Docket No. RM99-9-000; the name of the filing entity; the software and version used to create the file; and the name and telephone number of a contact person.

For Internet E-Mail submittal, comments should be submitted to "comment.rm@ferc.fed.us" in the following format. On the subject line, specify Docket No. RM99-9-000. In the body of the E-Mail message, include the name of the filing entity; the software and version used to create the file, and the name and telephone number of the contact person. Attach the comment to the E-Mail in one of the formats specified above. The Commission will send an automatic acknowledgment to the sender's E-Mail address upon receipt. Questions on electronic filing should be directed to Brooks Carter at 202-501-8145, E-Mail address brooks.carter@ferc.fed.us.

Commenters should take note that, until the Commission amends its rules and regulations, the paper copy of the filing remains the official copy of the document submitted. Therefore, any discrepancies between the paper filing and the electronic filing or the diskette

will be resolved by reference to the paper filing.

All written comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference room at 888 First Street, N.E., Washington D.C. 20426, during regular business hours. Additionally, comments may be viewed, printed, or downloaded remotely via the Internet through FERC's Homepage using the RIMS or CIPS links. RIMS contains all comments but only those comments submitted in electronic format are available on CIPS. User assistance is available at 202-208-2222, or by E-Mail to rimsmaster@ferc.fed.us.

#### List of Subjects in 18 CFR Part 385

Administrative practice and procedure, Electric power, Penalties, Pipelines, Reporting and recordkeeping requirements.

By direction of the Commission.

**David P. Boergers,**  
Secretary.

In consideration of the foregoing, the Commission proposes to amend Part 385, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

#### PART 385—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for Part 385 continues to read as follows:

**Authority:** 5 U.S.C. 551-557; 15 U.S.C. 717-717z, 3301-3432; 16 U.S.C. 791a-825r, 2601-2645; 31 U.S.C. 9701; 42 U.S.C. 7101-7352; 49 U.S.C. 60502; 49 App. U.S.C. 1-85.

2. In § 385.2010, new paragraph (i) is added to read as follows:

#### § 385.2010 Service (Rule 2010).

\* \* \* \* \*

(i) *Designation of corporate officials to receive service.* (1) Any entity subject to regulation by the Commission must designate at least one, but not more than two, corporate officials or other persons to receive service of complaints, petitions for declaratory order, show cause orders, data requests, investigatory letters or other documents where a person to receive service has not otherwise been designated under Commission regulations. Each entity must file with the Secretary of the Commission:

- (i) The name of the corporate official or person that is to receive service;
- (ii) The title of the corporate official or person, if applicable;
- (iii) The address of the corporate official or person, including, where applicable, department, room number, or mail routing code;
- (iv) The telephone number of the corporate official or person;

(v) The facsimile number of the corporate official or person, if applicable; and

(vi) The electronic mail address of the corporate official or person, if applicable.

(2) Each regulated entity has a continuing obligation to file with the Secretary of the Commission updated information concerning the corporate official or person designated to receive service.

(3) A list of corporate officials and persons designated to receive service pursuant to this paragraph (i) will be maintained by the Secretary of the Commission and will be made available to the public in hard copy upon request and through the Commission's web site at <http://www.ferc.fed.us>.

(4) Any person who wishes to serve a complaint or petition for declaratory order on any entity regulated by the Commission must serve the corporate official or person designated pursuant to this paragraph (i).

(5) The Commission will serve show cause orders, data requests, investigatory letters or other documents on the corporate official or person designated under this paragraph (i).

[FR Doc. 99-19882 Filed 8-3-99; 8:45 am]

BILLING CODE 6717-01-P

#### SOCIAL SECURITY ADMINISTRATION

#### 20 CFR Parts 404 and 416

[Regulations No. 4 and 16]

RIN 0960-AE96

#### Federal Old-Age, Survivors and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Determining Disability and Blindness; Clarification of "Age" as a Vocational Factor

AGENCY: Social Security Administration

ACTION: Notice of proposed rulemaking

**SUMMARY:** We propose to revise the Social Security and Supplemental Security Income (SSI) disability regulations to clarify our consideration of "age" as a vocational factor at the last step of our sequential evaluation process for determining whether an individual is disabled under title II or title XVI of the Social Security Act (the Act). We also propose to amend our rules to better explain how we consider transferability of skills for individuals who are of "advanced age" (age 55 or older) in deciding whether such

<sup>12</sup> 5 U.S.C. 601(3)(1994).

individuals can make an adjustment to other work.

**DATES:** To be sure that your comments are considered, we must receive them no later than October 4, 1999.

**ADDRESSES:** Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 17703, Baltimore, MD 21235-7703; sent by telefax to (410) 966-2830, sent by E-mail to [regulations@ssa.gov](mailto:regulations@ssa.gov); or delivered to the Office of Process and Innovating Management, Social Security Administration, 2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, between 8 a.m. and 4:30 p.m. on regular business days. Comments may be inspected during these same hours by making arrangements with the contact person shown below.

**FOR FURTHER INFORMATION CONTACT:** Georgia E. Myers, Acting Regulations Officer, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, 1-(410) 965-3632 or TTY 1-(800) 988-5906 for information about these rules. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Act provides, in title II, for the payment of disability benefits to persons insured under the Act. Title II also provides for the payment of child's insurance benefits for persons who become disabled before age 22, and for the payment of widow's and widower's insurance benefits for disabled widows, widowers, and surviving divorced spouses of insured persons. In addition, the Act provides, in title XVI, for SSI payments to persons who are aged, blind, or disabled and who have limited income and resources.

For adults (including persons claiming child's insurance benefits based on disability under title II), "disability" is defined in the Act under both title II and title XVI as the "inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months." Sections 223(d) and 1614(a) of the Act also state that an individual "shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and

work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work."

To implement the process for determining whether an individual is disabled based upon this statutory definition, our regulations at §§ 404.1520 ad 416.920 provide for a five-step sequential evaluation process as follows:

1. Is the individual engaging in substantial gainful activity? If the individual is working and the work is substantial gainful activity, we find that he or she is not disabled. Otherwise, we proceed to step 2 of the sequence.

2. Does the individual have an impairment or combination of impairments that is severe? If the individual does not have an impairment or combination of impairments that is severe, we find that he or she is not disabled. If the individual has an impairment or combination of impairments that is severe, we proceed to step 3 of the sequence.

3. Does the individual's impairment(s) meet or equal the severity of an impairment listed in appendix 1 of subpart P of part 404 of our regulations? If so, and the duration requirement is met, we find that he or she is disabled. If not, we proceed to step 4 of the sequence.

4. Does the individual's impairment(s) prevent him or her from doing his or her past relevant work, considering his or her residual functional capacity? If not, we find that he or she is not disabled. If so, we proceed to step 5 of the sequence.

5. Does the individual's impairment(s) prevent him or her from performing other work that exists in the national economy, considering his or her residual functional capacity together with the "vocational factors" of age, education, and work experience? If so, and if the duration requirement is met, we find that the individual is disabled. If not, we find that he or she is not disabled.

As discussed in §§ 404.1569 and 416.969, at step 5 of the sequential evaluation process we used the medical-vocational rules that are set out in appendix 2 of subpart P of part 404. (By reference, § 416.969 provides that appendix 2 is also applicable to adults claiming SSI payments based on disability.) In general, the rules in appendix 2 take administrative notice of the existence of numerous, unskilled occupations at exertional levels defined

in the regulations, such as "sedentary," "light," and "medium." Based upon a consideration of an individual's residual functional capacity, age, education, and work experience, the rules either direct a conclusion as to whether an individual is disabled at step 5 of the sequential evaluation process or provide a framework for making a decision at this step. Some rules in appendix 2 also direct a conclusion when an individual has "skills" acquired from previous skilled or semiskilled work that are "transferable" to other skilled or semiskilled work.

Our rules regarding age and skills are set out in §§ 404.1563, 404.1568, 416.963, and 416.968. The rules and explanatory text of appendix 2 of subpart ) of part 404 also provide guidance for considering the vocational factors of age, education, and work experience that supplement the information on consideration of these vocational factors in §§ 404.1560-404.1569a and 416.960-416.969a.

The revisions we are proposing would clarify a number of our rules on the consideration of one of the vocational factors, "age," in §§ 404.1563 and 416.963. They would also clarify in new §§ 404.1568(d)(4) and 416.969(d)(4) how we determine whether individuals who are of "advanced age" (i.e., age 55 or older), including individuals in a subcategory of advanced age called "closely approaching retirement age" (i.e., age 60-64), have skills that are transferable to other work.

**Summary of Proposed Changes**

*Sections 404.1563 and 416.963 Your Age as a Vocational Factor*

We propose to revise the first sentence of paragraph (a) of §§ 404.1563 and 416.963, "General," to state more clearly that "age" means chronological age. We propose to do this because there has been some misunderstanding about how we consider the vocational factor of "age" at step 5 of the sequential evaluation process. In current paragraph (a) we state, in part, that "Age refers to how old you are (your chronological age) \* \* \*." We use an individual's chronological age when we use the medical-vocational guidelines in appendix 2 to decide whether the individual can do other work. We do this because we built consideration of chronological age and its impact on an individual's ability to make an adjustment to other work into the medical-vocational guidelines in appendix 2, which also consider the person's education and work experience, as well as the person's

physical and mental functioning (i.e., residual functional capacity).

In addition to defining "age" as how old you are (your chronological age), the first sentence of current paragraph (a) of §§ 404.1563 and 416.963, explains that "age" refers to the extent to which age affects an individual's ability to adapt to a new work situation and "to do work in competition with others." We propose to incorporate the principle intended in this statement into a new third sentence that clarifies our intent, as explained below.

The second sentence of proposed §§ 404.1563(a) and 416.963(a) would combine the second and third sentences of current paragraph (a). It would clarify our intent that, when we decide whether a person is disabled, we will not consider the person's age alone, but will consider his or her residual functional capacity, education, and work experience together with age.

The proposed new third sentence of paragraph (a) of §§ 404.1563 and 416.963 explains that, when we consider the vocational factor of "age" in determining an individual's ability to adjust to other work, we consider advancing age to be an increasingly limiting factor in the ability to make such an adjustment.

The new third sentence we are proposing in paragraph (a) of §§ 404.1563 and 416.963, incorporates the rule we intended in the first sentence of current §§ 404.1563(a) and 416.963(a), indicating that we consider the effects of age on an individual's ability "to do work in competition with others." This current provision, together with a provision regarding skills that are "highly marketable" in current §§ 404.1563(d) and 416.963(d) that we also propose to replace, has been interpreted by some United States Courts of Appeals contrary to our intent, to support holdings that our regulations provide for consideration of an individual's employability. The circuit courts in these cases did not hold that their conclusions were required by the Act, which prohibits consideration of whether an individual would be hired if he or she applied for work. See sections 223(d)(2) and 1614(a)(3)(B) of the Act. Rather, the courts relied on the language in these current provisions of our regulations. These proposed changes in the regulations are, therefore, necessary to clarify our intent in this area.

The fourth and fifth sentences of proposed §§ 404.1563(a) and 416.963(a) are substantially the same as the fourth and fifth sentences of the current rules. In the fourth sentence of the proposed rules, we propose to replace the current rules' reference to the ability to "do a

significant number of jobs which exist in the national economy" with a reference to "the ability to do substantial gainful activity" to better reflect the definition of disability in the Act.

We propose to move the last sentence of paragraph (a) of §§ 404.1563 and 416.963 of the current rules to proposed §§ 404.1563(b) and 416.963(b). This sentence explains that we will not apply the age categories mechanically in a borderline situation, and we believe it will fit more logically with the provisions in proposed new paragraph (b), which would explain more fully how we apply the age categories.

We propose to add a new paragraph (b), entitled "How we apply the age categories," to §§ 404.1563 and 416.963. The new paragraph would explain that, if a person's age category changes during the period for which we are adjudicating a disability claim, we will use each of the age categories that is applicable to the person during the period for which we are deciding if the person is disabled. As already noted, we would also explain that in borderline age situations we will not apply the age categories mechanically. We also propose to explain that a "borderline" situation means that the individual is "within a few days to a few months" of reaching a higher age category, consistent with our current policy interpretation in Social Security Ruling 83-10, "Titles II and XVI: Determining Capability To Do Other Work—The Medical-Vocational Rules of Appendix 2," Social Security Rulings (C.E. 1983, p. 174). As we explain in that Social Security Ruling, we are unable to provide "fixed" guidelines since such guidelines themselves would reflect a mechanical approach. (See Social Security Ruling 83-10, *ibid.*, p. 182.)

Because we propose to include a new paragraph (b) in §§ 404.1563 and 416.963, we would redesignate the remaining paragraphs, i.e., current paragraphs (b) through (e), as paragraphs (c) through (f) in the proposed rules.

Proposed paragraph (c) of §§ 404.1563 and 416.963, "Younger person," incorporates the rules for individuals who have not yet attained age 50 that are in current §§ 404.1563(b) and 416.963(b). The reference to "age 45" in the second sentence of current §§ 404.1563(b) and 416.963(b), in which we explain that in some circumstances "we consider age 45 a handicap in adapting to a new work setting," is actually a reference to individuals who are age 45 through 49, because the category "younger person" ends upon attainment of age 50. We propose to

state this meaning plainly by changing "age 45" to "age 45-49." We also propose to revise the second sentence to remove the word "handicap," to make the language of paragraphs (c), (d), and (e) of the proposed rules consistent and to clarify our intent; i.e., to discuss the effects of age on the ability to make an adjustment to other work.

Proposed paragraph (d) of §§ 404.1563 and 416.963, "Person closely approaching advanced age," incorporates the rule for individuals age 50 through 54 that is in current §§ 404.1563(c) and 416.963(c). We propose to add the word "closely" to the heading of this paragraph for consistency with the text of the paragraph. We propose to replace the phrase at the end of the sentence in the current rule, "a significant number of jobs in the national economy," with the phrase, "other work," for consistency of language among the provisions of proposed paragraphs (c), (d), and (e) of §§ 404.1563 and 416.963. This is not intended to be a change in the standard, only a change for consistency among the provisions of these sections of the regulations.

Proposed paragraph (e) of §§ 404.1563 and 416.963, "Person of advanced age," incorporates the rules for individuals age 55 or older that are in the first sentence of current §§ 404.1563(d) and 416.963(d). As in the preceding paragraphs, we propose to replace the phrase, "ability to do substantial gainful activity," in the first sentence of the current rules with the phrase "ability to adjust to other work," so that paragraphs (c), (d), and (e) of §§ 404.1563 and 416.963 will contain consistent language.

We propose to revise the provisions that are in the second and third sentences of current §§ 404.1563(d) and 416.963(d) and to move these provisions to proposed new §§ 404.1568(d)(4) and 416.968(d)(4). We explain these proposed changes below, under the explanation of proposed §§ 404.1568(d)(4) and 416.968(d)(4). We propose to include in §§ 404.1563(e) and 416.963(e) an appropriate cross-reference to proposed § 404.1568(d) or § 416.968(d) to make it easier to find the provisions in their new location.

#### *Sections 404.1568 and 416.968 Skill Requirements*

We are proposing to add new §§ 404.1568(d)(4) and 416.968(d)(4), "Transferability of skills for individuals of advanced age," to our regulations addressing skills and their transferability. The proposed new paragraph would incorporate and clarify the provisions in the second and third

sentences of current §§ 404.1563(d) and 416.963(d). In the current regulations, these sentences provide rules regarding skills and their transferability for individuals of "advanced age" (i.e., age 55 or older) who have the residual functional capacity for no more than "sedentary" work, and for individuals who are "closely approaching retirement age" (i.e., age 60–64) who have the residual functional capacity for no more than "light" work. We believe that they more logically belong in the sections of our regulations that discuss our rules regarding skills and their transferability; i.e., §§ 404.1568 and 416.968. We are also proposing to revise these provisions to clarify our intent, to make their language consistent with current provisions in our regulations, and to be consistent with other provisions in these proposed rules.

The second sentence of current §§ 404.1563(d) and 416.963(d) states that if a person of advanced age has a severe impairment(s) and cannot do medium work (i.e., the person is limited to light or sedentary work), the person "may" not be able to work unless he or she has transferable skills. In fact, under our current rules, we will find that such a person cannot make an adjustment to other work (i.e., is disabled) unless he or she has skills that can be transferred to other jobs the person can do despite his or her impairment(s). We propose to modify the provision to make this clear.

We are proposing to incorporate in proposed new §§ 404.1568(d)(4) and 416.968(d)(4) provisions from §§ 201.00(f) and 202.00(f) of appendix 2 to subpart P of part 404 of our regulations, the Medical-Vocational Guidelines, to clarify our original intent regarding the last sentence of current §§ 404.1563(d) and 416.963(d) and for consistency in our rules. The proposed revisions explain that, for an individual of advanced age (i.e., age 55 or older) whose residual functional capacity permits him or her to do no more than sedentary work, we will find that such individual's skills are transferable to skilled or semiskilled sedentary work only if the sedentary work is so similar to the individual's previous work that the individual would need to make "very little, if any, vocational adjustment in terms of tools, work processes, work settings, or the industry." In addition, we propose to include in proposed new §§ 404.1568(d)(4) and 416.968(d)(4) a provision to clarify how we consider the transferability of skills for a person who is of advanced age but has not attained age 60 (i.e., a person age 55–59) and who has a severe impairment(s) that limits him or her to no more than light

work. We explain that for such a person we will apply the rules in paragraphs (d)(1) through (d)(3) of current §§ 404.1568 and 416.968 to determine if the person has skills that are transferable to skilled or semiskilled light work. The revisions also explain that, for an individual of advanced age who is "closely approaching retirement age" (i.e., age 60–64) and whose residual functional capacity permits him or her to do no more than light work, we will find that such individual's skills are transferable to skilled or semiskilled light work only if the light work is so similar to the individual's previous work that the individual would need to make "very little, if any, vocational adjustment in terms of tools, work processes, work settings, or the industry."

In making these revisions, we would replace the statement in current §§ 404.1563(d) and 416.963(d), "unless you have skills which are highly marketable," with the foregoing language taken from §§ 201.00(f) and 202.00(f) of appendix 2. This will clarify our original intent that the provisions of current §§ 404.1563(d) and 416.963(d) are consistent with, and must be read in the context of, the provisions of §§ 201.00(f) and 202.00(f) or appendix 2.

There is no reference to "highly marketable" skills in the Act, which prohibits consideration of whether an individual would be hired if he or she applied for work. (See sections 223(d)(2) and 1614(a)(3)(B) of the Act.) The phrase was one of the additions we made to the regulations under the "common sense" redodification in 1980. (See 45 FR 55566, August 20, 1980.)

When we issued those regulations, we did not intend to introduce the term as a statement of a new rule or as a change in existing rules. We intended only to contribute to public understanding of the provisions regarding transferability of skills for older workers in the Medical-Vocational Guidelines in appendix 2. (The language in appendix 2 was not changed by the "common sense" redodification in 1980.) However, by using different language in current §§ 404.1563(d) and 416.963(d) from that in appendix 2, we have inadvertently given the mistaken impression that we meant to establish a separate criterion for these individuals beyond what we already provide in appendix 2. That was not our intent. (See, e.g., Social Security Ruling 82–41, "Titles II and XVI: Work Skills and Their Transferability as Intended by the Expanded Vocational Factors Regulations Effective February 26, 1979," Social Security Rulings (C.E. 1982, pp. 196, 202); Final Rules for

Adjudicating Disability Claims in Which Vocational Factors Must Be Considered, 43 FR 55349, 55353–55354 (November 28, 1978).)

#### Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** on the Internet site for the Government Printing Office, [http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html). It is also available on the Internet site for SSA (i.e., SSA Online): <http://www.ssa.gov/>.

#### Regulatory Procedures

##### *Executive Order 12866*

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules do not meet the criteria for a significant regulatory action under Executive Order (E.O.) 12866. Thus, they were not subject to OMB review. We have also determined that these proposed rules meet the plain language requirement of E.O. 12866 and the President's memorandum of June 1, 1998.

##### *Clarity Of These Proposed Rules*

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your comments on how to make these proposed rules easier to understand. For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rules easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?

##### *Regulatory Flexibility Act*

We certify that these regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities because they affect only individuals. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

##### *Paperwork Reduction Act*

These regulations impose no additional reporting or recordkeeping requirements subject to OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

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

20 CFR Part 416

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

Dated: July 23, 1999.

Kenneth S. Apfel,

Commissioner of Social Security.

For the reasons set out in the preamble, we propose to amend subpart P of part 404 and subpart I of part 416 of 20 CFR chapter III as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950— )

Subpart P—[Amended]

1. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205(a), (b), and (d)–(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d)–(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189.

2. Section 404.1563 is amended by revising paragraph (a), redesignating paragraphs (b) through (e) as paragraphs (c) through (f), adding a new paragraph (b), and revising redesignated paragraphs (c), (d) and (e) to read as follows:

§ 404.1563 Your age as a vocational factor.

(a) General. "Age" means your chronological age. When we decide whether you are disabled under § 404.1520(f)(1), we will consider your chronological age in combination with your residual functional capacity, education, and work experience; we will not consider your ability to adjust to other work on the basis of your age alone. In determining the extent to which age affects a person's ability to adjust to other work, we consider advancing age to be an increasingly limiting factor in the person's ability to make such an adjustment, as we explain

in paragraphs (c) through (e) of this section. If you are unemployed because of your age, but you still have the ability to do substantial gainful activity, we will find that you are not disabled. In paragraphs (b) through (e) of this section and in appendix 2, we explain in more detail how we consider your age as a vocational factor.

(b) How we apply the age categories. When we make a finding about your ability to do other work under § 404.1520(f)(1), we will use the age categories in paragraphs (c) through (e) of this section. We will use each of the age categories that applies to you during the period for which we must determine if you are disabled. We will not apply the age categories mechanically in a borderline situation. If you are within a few days to a few months of reaching an older age category, and using the older age category could result in a determination or decision that you are disabled, we will consider whether to use the older age category after evaluating the overall impact of all of your vocational factors.

(c) Younger person. If you are a younger person (under age 50), we generally do not consider that your age will seriously affect your ability to adjust to other work. However, in some circumstances, we consider that persons age 45–49 are more limited in their ability to adjust to other work than persons who have not attained age 45. See Rule 201.17 in appendix 2.

(d) Person closely approaching advanced age. If you are closely approaching advanced age (age 50–54), we will consider that your age along with a severe impairment(s) and limited work experience may seriously affect your ability to adjust to other work.

(e) Person of advanced age. We consider that at advanced age (age 55 or older) chronological age significantly affects a person's ability to adjust to other work. We have special rules for persons of advanced age and for persons in this category who are closely approaching retirement age (age 60–64). See § 404.1568(d)(4).

\* \* \* \* \*

3. Section 404.1568 is amended by adding a new paragraph (d)(4) to read as follows:

§ 404.1568 Skill requirements.

\* \* \* \* \*

(d) Skills that can be used in other work (transferability) \* \* \*.

\* \* \* \* \*

(4) Transferability of skills for individuals of advanced age. If you are of advanced age (age 55 or older), and you have a severe impairment(s) that

limits you to sedentary or light work, we will find that you cannot make an adjustment to other work unless you have skills that you can use in (transfer to) other skilled or semiskilled work that you can do despite your impairment(s). We will decide if you have transferable skills as follows. If you are of advanced age and you have a severe impairment(s) that limits you to no more than sedentary work, we will find that you have skills that are transferable to skilled or semiskilled sedentary work only if the sedentary work is so similar to your previous work that you would need to make very little, if any, vocational adjustment in terms of tools, work processes, work settings, or the industry. (See § 404.1567(a) and § 201.00(f) of appendix 2.) If you are of advanced age but have not attained age 60, and you have a severe impairment(s) that limits you to no more than light work, we will apply the rules in paragraphs (d)(1) through (d)(3) of this section to decide if you have skills that are transferable to skilled or semiskilled light work (see § 404.1567(b)). If you are closely approaching retirement age (age 60–64) and you have a severe impairment(s) that limits you to no more than light work, we will find that you have skills that are transferable to skilled or semiskilled light work only if the light work is so similar to your previous work that you would need to make very little, if any, vocational adjustment in terms of tools, work processes, work settings, or the industry. (See § 404.1567(b) and § 202.00(f) of appendix 2.)

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

Subpart I—[Amended]

4. The authority citation for subpart I of part 416 continues to read as follows:

AUTHORITY: Secs. 702(a)(5), 1611, 1614, 1619, 1631(a), (c), and (d)(1), and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), and (d)(1), and 1383b); secs. 4(c) and 5, 6(c)–(e), 14(a) and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, 1382h note).

5. Section 416.963 is amended by revising paragraph (a), redesignating paragraphs (b) through (e) as paragraphs (c) through (f), adding a new paragraph (b), and revising redesignated paragraphs (c), (d) and (e) to read as follows:

§ 416.963 Your age as a vocational factor.

(a) General. "Age" means your chronological age. When we decide

whether you are disabled under § 416.920(f)(1), we will consider your chronological age in combination with your residual functional capacity, education, and work experience; we will not consider your ability to adjust to other work on the basis of your age alone. In determining the extent to which age affects a person's ability to adjust to other work, we consider advancing age to be an increasingly limiting factor in the person's ability to make such an adjustment, as we explain in paragraphs (c) through (e) of this section. If you are unemployed because of your age, but you still have the ability to do substantial gainful activity, we will find that you are not disabled. In paragraphs (b) through (e) of this section and in appendix 2 of subpart P of part 404 of this chapter, we explain in more detail how we consider your age as a vocational factor.

(b) *How we apply the age categories.* When we make a finding about your ability to do other work under § 416.920(f)(1), we will use the age categories in paragraphs (c) through (e) of this section. We will use each of the age categories that applies to you during the period for which we must determine if you are disabled. We will not apply the age categories mechanically in a borderline situation. If you are within a few days to a few months of reaching an older age category, and using the older age category could result in a determination or decision that you are disabled, we will consider whether to use the older age category after evaluation the overall impact of all of your vocational factors.

(c) *Younger person.* If you are a younger person (under age 50), we generally do not consider that your age will seriously affect your ability to adjust to other work. However, in some circumstances, we consider that persons age 45-49 are more limited in their ability to adjust to other work than persons who have not attained age 45. See Rule 201.17 in appendix 2 of subpart P of part 404 of this chapter.

(d) *Person closely approaching advanced age.* If you are closely approaching advanced age (age 50-54), we will consider that your age along with a severe impairment(s) and limited work experience may seriously affect your ability to adjust to other work.

(e) *Person of advanced age.* We consider that at advanced age (age 55 or older) chronological age significantly affects a person's ability to adjust to other work. We have special rules for persons of advanced age and for persons in this category who are closely

approaching retirement age (age 60-64). See § 16.968(d)(4).

\* \* \* \* \*

6. Section 416.96 is amended by adding a new paragraph (d)(4) to read as follows:

**§ 416.968 Skill requirements.**

\* \* \* \* \*

(d) *Skills that can be used in other work (transferability)* \* \* \* .

\* \* \* \* \*

(4) *Transferability of skills for individuals of advanced age.* If you are of advanced age (age 55 or older), and you have a severe impairment(s) that limits you to sedentary or light work, we will find that you cannot make an adjustment to other work unless you have skills that you can use in (transfer to) other skilled or semiskilled work that you can do despite your impairment(s). We will decide if you have transferable skills as follows. If you are of advanced age and you have a severe impairment(s) that limits you to no more than sedentary work, we will find that you have skills that are transferable to skilled or semiskilled sedentary work only if the sedentary work is so similar to your previous work that you would need to make very little, if any, vocational adjustment in terms of tools, work processes, work settings, or the industry. (See § 416.967(a) and § 201.00(f) of appendix 2 of subpart P of part 404 of this chapter.) If you are of advanced age but have not attained age 60, and you have a severe impairment(s) that limits you to not more than *light* work, we will apply the rules in paragraphs (d)(1) through (d)(3) of this section to decide if you have skills that are transferable to skilled or semiskilled light work (see § 416.967(b)). If you are closely approaching retirement age (age 60-64) and you have a severe impairment(s) that limits you to no more than *light* work, we will find that you have skills that are transferable to skilled or semiskilled light work only if the light work is so similar to your previous work that you would need to make very little, if any, vocational adjustment in terms of tools, work processes, work settings, or the industry. (See § 416.967(b) and § 202.00(f) of appendix 2 of subpart P of part 404 of this chapter.)

[FR Doc. 99-19989 Filed 8-3-99; 8:45 am]

BILLING CODE 4190-29-M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 101**

[Docket No. 98P-0683]

**Food Labeling: Health Claims; Soy Protein and Coronary Heart Disease**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Proposed rule; notice of extension of period for issuance of final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is extending, for 80 days, the period for issuance of a final rule in response to its proposal of November 10, 1998, entitled 'Food Labeling: Health Claims; Soy Protein and Coronary Heart Disease.' FDA's regulations require the agency to issue a notice of such extension if it finds, for cause, that it is unable to issue a final rule within 270 days from the November 10, 1998, date of publication of the proposal. Comments to that proposal have persuaded the agency of the need to propose an alternative procedure to assess compliance with qualifying amounts of soy protein in foods that may bear the proposed health claim. FDA will publish a reproposal of the procedure for compliance assessment in the **Federal Register** shortly. The agency then intends to issue one final rule in response to both proposals on or before October 25, 1999.

**FOR FURTHER INFORMATION CONTACT:** Susan M. Pilch, Center for Food Safety and Applied Nutrition (HFS-465), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-205-4500.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of May 22, 1997 (62 FR 28229), FDA published a final rule to amend § 101.70 (21 CFR 101.70) of its regulations to provide a timeframe in which it will issue, in rulemakings on health claims, final rules announcing whether it will authorize the use of the claim at issue and to provide for extensions of that timeframe for cause. In that final rule, FDA adopted § 101.70(j)(4)(i), which provides that within 270 days of the date of publication of a proposal to authorize a health claim, the agency will publish a final rule that either authorizes the use of a health claim or explains why the agency has decided not to authorize one. FDA also adopted § 101.70(j)(4)(ii), which provides that, for cause, the agency may extend, no more than twice, the period in which it will publish a final rule and that each such extension