decommissioned. The V–171 airway amendment in Docket No. FAA–2023–1026 was inadvertently included in the final rule for Docket No. FAA–2023–1735. The correct V–171 description extends between the Lexington, KY, VOR/Distance Measuring Equipment (VOR/DME) and the Terre Haute, IN, VORTAC; between the Peotone, IL, VORTAC and the Joliet, IL, VOR/DME; between the Nodine, MN, VORTAC and the Farmington, MN, VORTAC; and between the Alexandria, MN, VOR/DME and the Grand Forks, ND, VOR/DME. This rule corrects the V–171 description in the regulatory text section of the Docket No. FAA–2023–1735 final rule.

This action does not alter the alignment of the amended V–78 or V–171 beyond the removal of the airway segment in V–171 between the Terra Haute, IN, VORTAC and the Peotone, IL, VORTAC which was included, in error, in the final rule.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the V–171 airway description in the regulatory text section of the rule in Docket No. FAA–2023–1735, as published in the **Federal Register** of March 5, 2024 (89 FR 15738), FR Doc. 2024–04611, is corrected as follows:

■ 1. In FR Doc. 2024–04611, appearing on page 15740, in the first column, replace the V–171 airway description in the regulatory text section of the rule to read,

V–171 [Amended]

From Lexington, KY; INT Lexington 251° and Louisville, KY, 114° radials; Louisville; to Terre Haute, IN. From Peotone, IL; INT Peotone 281° and Joliet, IL, 173° radials; to Joliet. From Nodine, MN; INT Nodine 298° and Farmington, MN, 124° radials; to Farmington. From Alexandria, MN; INT Alexandria 321° and Grand Forks, ND, 152° radials; to Grand Forks.

Issued in Washington, DC, on April 12, 2024.

Frank Lias,

Manager, Rules and Regulations Group.

[FR Doc. 2024–08167 Filed 4–17–24; 8:45 am]

BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA–2023–0024]

RIN 0960–AI83

Intermediate Improvement to the Disability Adjudication Process, Including How We Consider Past Work

AGENCY: Social Security Administration (SSA).

ACTION: Final rule.

SUMMARY: We are finalizing our proposed regulation to revise the time period that we consider when determining whether an individual's past work is relevant for the purposes of making disability determinations and decisions. We are revising the definition of past relevant work (PRW) by reducing the relevant work period from 15 to 5 years. Additionally, we will not consider past work that started and stopped in fewer than 30 calendar days to be PRW. These changes will reduce the burden on individuals applying for disability by allowing them to focus on the most current and relevant information about their past work. The changes will also better reflect the current evidence about worker skill decay and job responsibilities, reduce processing times, and improve customer service. This final rule also includes other minor revisions to our regulations related to PRW.

DATES: This final rule will be effective on June 8, 2024.

FOR FURTHER INFORMATION CONTACT: Mary Quatroche, Office of Disability Policy, Social Security Administration, 6401 Security Boulevard, 3rd Floor (East), Altmeyer Building, Baltimore, MD 21235–6401, (410) 966–4794. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our internet site, Social Security Online, at *https://www.ssa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Social Security Act (Act) defines disability as the inability to engage in any substantial gainful activity (SGA) 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.[1] The Act also states that, for adults,[2] an individual shall be determined to have a disability only if their physical or mental impairment or impairments are of such severity that they are not only unable to do their previous work but cannot, considering their age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy,[3] regardless of whether such work exists in the immediate area in which they live, or whether a specific job vacancy exists for them, or whether they would be hired if they applied for work.[4]

We use a five-step sequential evaluation process to determine whether an individual who has filed an initial claim for Supplemental Security Income (SSI) or Old-Age, Survivors, and Disability Insurance (OASDI) benefits is disabled.[5] At step one of the sequential evaluation process we consider whether an individual is working, and whether that work qualifies as SGA.[6] At this step, if an individual is performing at SGA levels, they are not considered disabled.[7] At step two of the sequential evaluation process, we consider whether an individual has any ''severe'' impairment(s), which means that the impairment(s) significantly limits their physical or mental ability to do basic work activities,[8] and whether the impairment(s) has lasted or is expected to last for a continuous period of at least 12 months or result in death.[9] At step three of the sequential evaluation process, we consider whether an individual's impairment(s) meets or

[1] 42 U.S.C. 423(d)(1)(A) and 1382c(a)(3)(A).

[2] The Act defines disability differently for individuals under the age of 18. See 42 U.S.C. 1382c(a)(3)(C).

[3] 42 U.S.C. 423(d)(2)(A) and 1382c(a)(3)(B). The Act defines *work which exists in the national economy* as work which exists in significant numbers either in the region where such individual lives or in several regions of the country.

[4] *Id.*

[5] *Id.* See 20 CFR 404.1520 and 416.920.

[6] 20 CFR 404.1520(a)(4)(i) and 416.920(a)(4)(i). We explain substantial gainful activity (SGA) at 20 CFR 404.1510, 404.1572, 416.910, and 416.972. Substantial work involves doing significant physical or mental activities. An individual's work may be substantial even if it is done on a part-time basis or if the individual does less, gets paid less, or has less responsibility than when they worked before. Gainful means work for pay or profit, or work of a type generally performed for pay or profit.

[7] The monthly SGA amount changes annually. For 2024, the monthly SGA amount is $1,550 for non-blind individuals and $2,590 for statutorily blind individuals.

[8] See 20 CFR 404.1520(a)(4)(ii), 404.1520(c), 416.920(a)(4)(ii) and 416.920(c). We explain what we mean by an impairment that is not severe in 20 CFR 404.1522 and 416.922. In this final rule, we use the term *impairment(s)* to mean an *impairment or combination of impairments.*

[9] 20 CFR 404.1520(a)(4)(ii) and 416.920(a)(4)(ii). We explain the duration requirement at 20 CFR 404.1509 and 416.909. See also SSR 23–1p: Titles II and XVI: Duration Requirement for Disability.

medically equals in severity an impairment(s) in the Listing of Impairments.[10] If the individual's impairment(s) does not meet or medically equal in severity a listed impairment, we determine their residual functional capacity (RFC). RFC is the most an individual can do despite the limitations caused by their impairment(s).[11] This final rule will not affect how we evaluate the first three steps of the sequential evaluation process.

This final rule will affect how we evaluate disability claims at steps four and five of the sequential evaluation process because we consider the individual's PRW at both of these steps. At step four of the sequential evaluation process, we consider the individual's work history and whether, given their RFC, they could perform any of their PRW either as they actually performed it or as it is generally performed in the national economy.[12] Under our prior definition, PRW was work an individual did within the past 15 years, that was SGA, and that lasted long enough for the individual to learn how to do it.[13] This final rule revises the PRW definition. If the individual can perform any of their PRW, we will find them not disabled. If the individual cannot perform any of their PRW, we go to the next step.

At step five of the sequential evaluation process, we again refer to an individual's work history to determine whether an individual's impairment(s) prevents them from adjusting to other work that exists in significant numbers in the national economy, considering their RFC and the vocational factors of age, education, and work experience. To support a determination or decision at step five of the sequential evaluation process, we use the medical-vocational profiles [14] and medical-vocational guidelines,[15] commonly known as the ''grid rules,'' to consider whether an individual can adjust to other work. If the individual can adjust to other work that exists in significant numbers in the national economy, considering their RFC, age, education, and work experience, we find they are not disabled. If an individual cannot adjust to other work that exists in significant numbers in the national economy, we find that they are disabled.[16] We are not changing our rules regarding RFC, age, or education in this rulemaking.

Once an individual is found disabled and receives benefits, we may periodically conduct a continuing disability review (CDR) to determine whether the individual continues to be disabled.[17] Although the CDR rules use a different sequential evaluation process, the final two steps of the process used for CDRs (steps seven and eight in title II OASDI cases and steps six and seven in adult title XVI SSI cases) mirror the final two steps used in the sequential evaluation process for initial claims (steps four and five).[18] Under the prior rule, the relevant work period for CDRs included work an individual did within 15 years prior to the date of the CDR determination or decision.[19] This final rule changes the relevant work period we use for CDRs to 5 years to align with the changes being made to the initial disability sequential evaluation process.

Proposed Rule

On September 29, 2023, we published a notice of proposed rulemaking (NPRM) in the **Federal Register** entitled *Intermediate Improvement to the Disability Adjudication Process: Including How We Consider Past Work.*[20] In the NPRM, we proposed to revise our regulatory definition of PRW and to make another minor revision to our regulatory text about the vocational factor of work experience. Specifically, we proposed to define PRW as work an individual has done within the past 5 years, which was performed at SGA level, and that lasted long enough for the individual to learn how to do it. Additionally, we proposed to revise the relevant work period for CDRs to include work an individual has done within 5 years prior to the date of the CDR determination or decision.

We also proposed to remove a sentence in 20 CFR 404.1565(a) and 416.965(a) that explained that the intent of our work experience rules is to ''insure that remote work experience is not currently applied.'' The NPRM included a full discussion of how the proposal would affect steps four and five of the sequential evaluation process, rationale for the proposed revisions, and an analysis of its effects.

In this final rule, we are adopting the NPRM's proposed revisions, discussion, rationale, and analysis in full, with the modifications described below.

Modifications From NPRM

We are adopting our original proposal with some modifications. The regulatory text in this final rule differs slightly from the regulatory text we proposed in the NPRM, due to: (1) an inadvertent error; and (2) public feedback submitted in response to our questions in the NPRM. We detail these changes below.

In the NPRM, we proposed to remove a sentence in 20 CFR 404.1565(a) and 416.965(a) that explains that the intent of our work experience rules is to ''insure that remote work experience is not currently applied.'' However, the sentence inadvertently remained within the proposed regulatory text in 20 CFR 416.965(a). We published a correction document on December 1, 2023, affirmatively removing that sentence from the proposed regulatory text of the NPRM.[21]

In the NPRM we solicited feedback on whether we should revise our requirements so that individuals completing the work history forms do not need to report jobs held for a short period of time.[22] Following the thoughtful feedback we received from commenters in support of a range of different time periods, we have decided that we will not consider PRW to include work an individual started and stopped in fewer than 30 calendar days. We are revising the language in 20 CFR 404.1560(b)(1) and 416.960(b)(1) by removing the definition of PRW from paragraph (b)(1), adding the definition as a new paragraph (b)(1)(i), and adding the new regulatory text for the minimum threshold of 30 calendar days for PRW in a new paragraph (b)(1)(ii). In addition, we revised a sentence in 20 CFR 404.1565(a) and 416.965(a) to explain how we will consider work that started and stopped in fewer than 30

[10] 20 CFR 404.1520(a)(4)(iii), 404.1525, 416.920(a)(4)(iii), and 416.925. The Listing of Impairments is found at 20 CFR part 404, subpart P, appendix 1, and it applies to title XVI under 20 CFR 416.925.

[11] See 20 CFR 404.1520(e), 404.1545, 416.920(e), and 416.945. See also SSR 96–8p: Policy Interpretation Ruling Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims.

[12] 20 CFR 404.1520(a)(4)(iv), 404.1520(f), 404.1560(b)(2), 416.920(a)(4)(iv), 416.920(f), and 416.960(b)(2).

[13] 20 CFR 404.1560(b)(1) and 416.960(b)(1).

[14] See 20 CFR 404.1520(g)(2), 404.1562, 416.920(g)(2), and 416.962; *see also* POMS DI 25010.001 Medical-Vocational Profiles, available at: *https://secure.ssa.gov/poms.NSF/lnx/0425010001*.

[15] See 20 CFR 404.1560(c), 404.1562, 404.1569, 416.960(c), 416.962, and 416.969.

[16] 20 CFR 404.1520(a)(4)(v) and 416.920(a)(4)(v).

[17] 20 CFR 404.1520(a)(5), 404.1594, 416.920(a)(5), and 416.994.

[18] 20 CFR 404.1594(f)(7) and (8) and 416.994(b)(5)(vi) and (vii). Title II benefits include disability insurance benefits, disabled widow(er) benefits, and child disability benefits. Title XVI benefits include supplemental security income.

[19] 20 CFR 404.1594(f)(7) and 416.994(b)(5)(vi). At the last two steps in the CDR sequential evaluation process, we do not consider work that an individual is doing or has done during a current period of disability entitlement to be PRW or past work experience; see 20 CFR 404.1594(i)(1) and 416.994(b)(8)(i).

[20] 88 FR 67135 (Sept. 29, 2023).

[21] 88 FR 83877 (Dec. 1, 2023).

[22] 88 FR 67135 at 67144 (Sept. 29, 2023).

calendar days. These changes are discussed in detail below.

- The final rule language for 20 CFR 404.1560(b)(1) and 416.960(b)(1), now reads: ''Definition of past relevant work.''
- We are adding 20 CFR 404.1560(b)(1)(i) past relevant work is work that you have done within the past five years that was substantial gainful activity and that lasted long enough for you to learn to do it (see § 404.1565(a)). We will not consider work to be past relevant work if you started and stopped it in fewer than 30 calendar days (see § 404.1560(b)(1)(ii)). We are making parallel revisions in 20 CFR 416.960(b)(1)(i).
- We are adding 20 CFR 404.1560(b)(1)(ii) When we state that we consider past relevant work and work experience (see § 404.1565), 30 calendar days means a period of 30 consecutive days, including weekends, starting from the first day of work. When we consider whether work lasted 30 calendar days, we generally do not consider the total number of hours or days worked during that period, or whether the work was full-time or part-time. The 30 calendar days requirement is separate from the consideration of substantial gainful activity or whether you worked long enough to learn how to do the work, although the work performed during the 30 calendar days may count toward the time needed for you to learn to do the work. The 30 calendar days requirement also applies if you were self-employed or an independent contractor; we will consider whether you were engaged in the same type of work for 30 calendar days, even if individual work assignments or contracts each lasted fewer than 30 calendar days. We are making parallel revisions in 20 CFR 416.960(b)(1)(ii).
- We are revising in 20 CFR 404.1565(a) from the prior text, ''If you have no work experience or worked only 'off and on' or for brief periods of time during the five-year period, we generally consider that these do not apply,'' to read in the final rule as, ''If you have no work experience or you did work that started and stopped in a period of fewer than 30 calendar days (see § 404.1560(b)(1)(ii)) during the five-year period, we generally consider that these do not apply.'' We are making parallel revisions in 20 CFR 416.965(a).

We are adding this minimum 30-calendar-day threshold in response to feedback we solicited in the NPRM. To clarify our intent with this addition to the rule, we are providing two examples.

Example 1: On March 1, 2023, an individual began working a job that requires only a brief demonstration to learn. The individual's last day of work was March 30, 2023. The individual worked at the job for 30 calendar days because they started work on March 1, 2023, and their last day of work was on March 30, 2023. In this situation, the job would qualify as PRW if it was performed at the SGA level and during the 5-year relevant work period.

Example 2: On February 1, 2023, an individual began working a job that requires only a brief demonstration to learn. The individual's last day of work was February 28, 2023. Although the individual held the job long enough to learn to do it, the work started and stopped in fewer than 30 calendar days. In this situation, the job would not qualify as PRW, even if it was performed at the SGA level and during the 5-year relevant work period.

Severability

In the event of an invalidation of any part of this rule, our intent is to preserve the remaining portions of the rule to the fullest possible extent. In particular, we intend the revision of the reduction of the relevant work period for PRW in 20 CFR 404.1560, 404.1565, 416.960, and 416.965 from 15 to 5 years to be severable, as that revision explains our new rule and functions independently of the other changes reflected in this final rule. We also intend the addition of the sentence in 20 CFR 404.1560(1)(i) and 416.960(1)(i) that: ''We will not consider work to be past relevant work if you started and stopped it in fewer than 30 calendar days'' along with the revision of the sentence in 20 CFR 404.1565(a) and 416.965(a) that accounts for the new 30 calendar day period (*i.e.,* the sentence containing the words ''you did work that started and stopped in a period of fewer than 30 calendar days'') to be severable, as these changes explain our new rule and function independently of the other changes reflected in this final rule.

Finally, we intend the removal of the sentence in 20 CFR 404.1565(a) and 416.965(a) that explains the intent of our work experience rules is to ''insure that remote work experience is not currently applied'' to be severable, as that revision clarifies our rule and functions independently of the other changes reflected in this final rule.

Justification for Changes

We have long recognized that a gradual change occurs in most jobs in the national economy, so that after a certain period of time it is not realistic to expect that skills and abilities an individual acquired while performing these jobs continue to apply.[23] In this rule, we are changing the relevant work period to 5 years because it reflects the shorter collection cycles of occupational surveys and data programs, which establish a frame of reference for understanding changing occupational requirements.

Changing the relevant work period from the prior 15 years to 5 years and setting a minimum time period of 30 calendar days for performing work will better account for the diminishing relevance of work skills over time and reduce the burden on individuals applying for disability. This change will allow us to improve the quality of the information we receive by eliminating the individual's need to recall and consistently report detailed information about less recent work or work performed for less than 30 calendar days, reduce the time spent filling out work history forms, and reduce wait times for a determination or a decision. Accordingly, this change will improve customer service and adjudicative efficiency.

This final rule will achieve several goals. First, this final rule will allow individuals to focus on the most current and relevant information about their past work.[24] We largely rely on individuals' self-reporting for information about their past work. In our adjudicative experience, information tends to be less accurate and less complete for jobs that individuals held in the distant past. We expect this final rule will result in our receiving more complete work history forms and reduce the need for our staff to follow up for additional work history information. Second, this final rule will better account for current evidence on the diminishing relevance of work skills and changes in job requirements over time. Third, this final rule will reduce processing time and improve customer service. As we discussed in the NPRM, each year we adjudicate millions of claims for disability benefits, and our ability to make determinations and decisions more quickly will ultimately benefit the public we serve.[25] Fourth, this final rule will lessen the information collection burden on individuals by reducing, on average, the number of jobs about which they must provide us with information.[26]

[23] 20 CFR 404.1565(a) and 416.965(a).

[24] 20 CFR 404.1565(b) and 416.965(b). See also POMS DI 22515.001 Overview of Vocational Evidence Development, available at: *https://secure.ssa.gov/apps10/poms.nsf/lnx/0422515001.*

[25] *Heckler* v. *Campbell,* 461 U.S. 458, 461, n.2 (1983).

[26] 88 FR 67135 at 67142–43 (Sept. 29, 2023).

In summary, by eliminating an individual's need to recall and report detailed information about less recent work, we anticipate this final rule will allow us to improve the quality of the information we receive; will significantly reduce burden on the individual from filling out work history forms; and will reduce case processing and waiting times. These outcomes will overall offer a better customer experience for individuals applying for disability and will increase our adjudicative efficiency. For a more detailed explanation of how we expect this final rule to achieve these objectives, please refer to the Justification for Change section in the NPRM.[27]

Comment Summary

We solicited comments on the proposed rule and received 99 public comments on our NPRM from September 29, 2023, through November 28, 2023. Of the total comments, 89 are available for public viewing at *https://www.regulations.gov/document/SSA-2023-0024-0001*. We excluded three comments that were exact duplicates, one comment that was out of scope, and six comments submitted by one of our employees in their official capacity. The publicly available comments were from:

- Individuals;
- Over 20 groups submitting comments on behalf of their organizations, such as (but not limited to) the Center on Budget and Policy Priorities, Homeless Action Center, International Association of Rehabilitation Professionals, National Association of Disability Representatives, National Council of Disability Determination Directors, and National Organization of Social Security Claimants' Representatives; and
- Ranking Congressional Members from the Subcommittee on Social Security and Subcommittee on Worker and Family Support.

The vast majority of commenters supported the proposal in the NPRM. Some commenters agreed with the proposal but recommended changes, either in this final rule or in future rulemakings. Several other commenters disagreed with the proposal. We carefully considered these comments, which we summarize and respond to below. We addressed only issues raised by comments that were within the scope of this rulemaking.

[27] *Id.* at 67140–43.

Comments and Responses

Relevant Work Period

Support for the Policy Change Based on the Nature of Work, Ability To Accurately Recall Information About Work, and Adjudicative Efficiency

Comment: Many commenters supported our proposal to revise the definition of PRW by reducing the relevant work period from 15 to 5 years. Several commenters agreed changing the relevant work period to 5 years would help both individuals applying for disability and our staff by reducing the time and effort involved in procuring and reviewing information about individuals' relevant work history. Some commenters stated that our prior use of a 15-year relevant work period can be needlessly burdensome for individuals who have difficulty accurately recalling details of jobs performed several years earlier, especially if those jobs were held for only a short period of time, or if an individual held numerous jobs during the 15-year period.

Further, several commenters said that individuals often do not remember intricate details about jobs they performed 10 to 15 years ago, particularly information regarding the rate of pay, the number of months they worked, and the physical and mental demands of the job they performed. These commenters opined that the need to provide such information about work an individual performed many years earlier often results in their providing us with incomplete or inaccurate work history reports. Moreover, some commenters opined that when individuals have difficulty accurately recalling the physical and mental requirements of a past job, they are more likely to estimate the demands of their past work incorrectly.

Commenters identifying themselves as disability representatives confirmed that in their experience, individuals often have a vague recollection of job information going back 15 years, making it necessary for these representatives to spend a great deal of time with their clients helping them recall, evaluate, and report job duties from a decade or more ago. Additional commenters stated that, as representatives, they commonly need to correct prior work history information that their clients initially provided during earlier steps in the adjudication process.

Some commenters said that difficulty remembering prior work is exacerbated when an individual suffers from a brain injury, memory loss, or a cognitive or other mental health impairment. Many commenters agreed that allowing individuals to focus on only the most recent 5 years of work history would increase the accuracy of information provided to us. Another commenter noted that adopting a 5-year relevant work period would make associated work history reporting forms shorter and easier for individuals to complete.

Additionally, several commenters conveyed that inaccurate or imprecise recounting of information about work history submitted to us increases the work for our adjudicators, often resulting in the need for us to engage in lengthy development to gather accurate and precise information. A few commenters expressed the opinion that the mistakes on the work history forms, even after our efforts to correct them, may still result in individuals being denied benefits due to ''insufficient evidence'' because the individuals were unable to provide the amount of detail about their past work required by the Act and our rules.[28] Many commenters expressed the view that reducing the relevant work period to 5 years would ease the burden on individuals because they would only have to provide more recent work history, which is likely easier to recall in detail. Multiple commenters suggested that reporting less work history would likely result in an increase in the quality of information submitted and would reduce the burden on our adjudicators who must collect and assess detailed information about an individual's prior work. Some commenters opined that this change would cut down on case processing time overall, enabling us to issue determinations and decisions faster.

Additional commenters said the proposal would help more vulnerable populations, such as those facing housing deprivation, loss of belongings, and other crises.

Response: We acknowledge the support for our proposed change expressed in the many comments described above. We appreciate the commenters sharing their valuable insights on their experience with the disability application process, both from those with experience assisting others in the disability application process and those with personal experience applying for benefits on their own. We anticipate that this final rule, once implemented, will help address many of these issues commenters thoroughly outlined.

Comment: Some commenters asserted that individuals now change jobs more frequently than in the past and that it is unrealistic to expect individuals to retain the ability to perform PRW last

[28] See 20 CFR 404.1565 and 416.965.

done close to 15 years ago. In support of this second point, commenters indicated that younger workers and workers performing lower-wage jobs tend to change jobs more frequently. One commenter specified that there is a particularly high rate of turnover in low-wage service occupations. Many commenters alleged that skills individuals acquired from their past work erode over time.

Response: We appreciate commenters' perspectives that many of today's workers change jobs more frequently than they used to over the course of their careers. Additionally, the NPRM acknowledged that younger individuals tend to change jobs more frequently than other individuals. We note that a commenter cited data from the Bureau of Labor Statistics (BLS) indicating that workers in lower-wage occupations, especially those in service industries, change employers more frequently than other workers.[29] This final rule will reduce the burden on individuals who change jobs frequently because they will need to recall and report details about only more recent jobs, and it will also help them report the most relevant information.

Comment: Several commenters stated that job duties and the skills required to perform certain jobs have changed significantly in recent decades. Many commenters indicated that due to workplace changes, particularly due to changes in technology, jobs held 10 to 15 years ago may require a different skill set to perform; may require different experience or physical demands; or the job may no longer exist. Thus, jobs from 10 to 15 years ago would have a limited relevance on an individual's current ability to perform past work. One commenter stated that these considerations apply both to technology jobs, which constantly require new knowledge and skills due to the evolution of software and systems, and office jobs, which now rely heavily on technology, including computers, software, and scanners, in a way they did not 10 years ago. One commenter said that shortening the relevant work period would yield more realistic results because it would more accurately reflect an individual's capacity to work in the modern job market.

Response: We appreciate the commenters' perspectives about the changes in occupational requirements over time. When we consider an individual's ability to perform the requirements of their PRW at step four of the sequential evaluation process,[30] we consider whether they can do the work as they actually performed it or as it is generally performed in the national economy.[31] While we do not consider at step four whether an individual's PRW still exists,[32] our final rule reflects a recognition that occupational requirements with respect to skills and experience as well as physical and mental demands change over time.

Opposition to Our Proposal To Shorten the Relevant Work Period From 15 to 5 Years

Commenter Preference for Change to 10 Years

Comment: A few commenters suggested that we should instead adopt a 10-year relevant work period. One of these commenters referred to a statement in the NPRM that, in recent decades, major surveys and data programs concerning occupational requirements have refreshed their data in collection cycles ranging from 5 to 10 years. The commenter asserted that these programs address neither the skills required for work nor the rate of decay of those skills and concluded that, as a result, our proposal to reduce the relevant work period to 5 years was without foundation. In addition, this commenter said that the research we cited at best supports a change to 10 years. Specifically, (1) the commenter cited certain statistics that they thought were not supportive of the proposal; and (2) the commenter questioned the relevance of the rate at which occupational requirements change and the rate at which individuals' skills decay.

Response: We do not agree with the commenter's suggestion that our proposal is unsupported, or that a 10-year relevant work period would be better supported. As we acknowledged in the NPRM, information regarding the rate of occupational change is inexact. Nevertheless, major surveys and data programs concerning occupational requirements have data collection cycles ranging from 5 to 10 years; these collection cycles inform us about the rate of occupational change and represent a range of reasonable options. We also cited research indicating that unused manual skills deteriorate significantly before 10 years. We selected 5 years (at the lower end of the reasonable range) because it balances our need for an accurate and relevant work history with the important goal of reducing burden for individuals. Use of a 5-year relevant work period is supported by the research we cited, and it will allow us to collect work history information that is more accurate and complete. Our use of the shorter relevant work period will also reduce processing time and improve customer service.

The Relevant Work Period Should Vary by Type of Work

Comment: Some commenters expressed the opinion that the proposed 5-year relevant work period should apply only to certain types of work. For example, some commenters stated that a 5-year relevant work period would be appropriate for work in the technology sector or medical field, but that it would be inappropriate for other kinds of work that undergo less rapid change.

Response: We currently use one relevant work period. Introducing multiple standards based on type of work, industry, or field would add significant complexity to our adjudication process and would make our rules more difficult to understand for individuals, their representatives, and our adjudicators. This runs contrary to our goal of helping reduce burden on the public and our adjudicators.

5-Year Relevant Work Period Is Not Sufficient

Comment: Several commenters expressed that a 5-year relevant work period does not provide enough time for us to assess whether individuals retain skills from past work. Another commenter stated that 5 years is too short and likely overlooks skills which are recent and potentially transferable. One commenter said that analysis of an individual's ability to perform technical and highly skilled occupations required knowledge of their past work experience, education, and training that would be lost by reducing the relevant work period to 5 years. Another commenter stated that a 5-year relevant work period would not account for an individual's education, experience, or on-the-job training. They suggested that education and knowledge gained on the job are relevant for longer than would be accounted for in a 5-year relevant work period.

Response: In response to the first three comments, we again note that the research we reviewed and the data we collected from our own survey and listening session collectively indicated that work histories of 5 to 10 years were most relevant and appropriate. When surveying individuals and their representatives, we found that it was

[29] Available at: *https://www.bls.gov/news.release/pdf/tenure.pdf*.

[30] We use a different sequential evaluation process when we conduct continuing disability reviews (CDR). See 20 CFR 404.1594 and 416.994.

[31] See 20 CFR 404.1565 and 416.965.

[32] See *Barnhart* v. *Thomas*, 540 U.S. 20 (2003).

much harder for individuals to remember information from over 5 years ago. Survey participants said that the most accurate information they are able to recall is from work performed within the past 5 years. In addition, multiple commenters agreed that the most accurate information they or the individuals they represent were able to recall is from within the past 5 years. When factoring in the feedback from individuals participating in our survey and listening session and from multiple commenters wanting a work history requirement closer to 5 years, and in weighing our desire to significantly reduce burden for the public, we selected 5 years as the most appropriate new work history requirement.

We do not agree with the fourth comment regarding education and the relevant work period. When we consider whether recently completed education would permit an individual to enter directly into skilled or semiskilled work other than PRW, we have long stated that such education is only relevant for 5 years.[33] The commenter did not explain how our consideration of the vocational relevance of an individual's education is inappropriate, and they did not provide supporting evidence to show our use of a 5-year relevant work period would be inappropriate.

Comment: A few commenters indicated that the shorter relevant work period inappropriately minimized the utility of vocational expert testimony, because (1) vocational experts have the education and training to best determine which past work is relevant; and (2) a 15-year relevant work period provides vocational experts with a substantial period of time to review to determine workers' skills both pre- and post-injury.

Response: Regarding the commenters' assertions that a 15-year relevant work period is necessary to determine whether an individual has acquired skills that can be used in other work, we disagree. Based on the justifications and benefits that we describe in this final rule and earlier in the NPRM, we have concluded that the 5-year relevant period is sufficient for the consideration of an individual's past work experience. Even with the 5-year relevant work period, our expectation is that vocational expert testimony can still be a vital part of our hearing process.

Concern That the Change to PRW Will Be Adopted Outside of SSA

Comment: A commenter expressed concern that, if we were to use a 5-year relevant work period, ''others, including those in the forensic space,'' might also adopt the same time period.

Response: This final rule is intended to apply only to our disability programs. We have no control over whether others might adopt similar policies or timeframes, and the possible adoption of the 5-year period outside of that context by others would not invalidate the rationale upon which we are basing this rule.

Elimination of PRW as a Consideration Altogether

Comment: Two commenters said that the 15-year relevant work period should be eliminated altogether, alleging that it is a ''discrimination factor.'' The commenters suggested that no specific time frame could accurately capture whether an individual's work experience is relevant, because the rate at which skills change will vary across different occupations. The same commenters criticized our use of an individual's age in determining benefit entitlement or eligibility, and they suggested we eliminate consideration of age because older workers are capable of learning new skills and adding value to the workforce.

Response: We did not adopt these comments. The Act requires that we consider an individual's work experience. In addition, as we acknowledged in the NPRM, information regarding the rate of occupational change is inexact, and the rate of skill decay may vary based on the type of occupational requirements at issue. However, this final rule reflects our conclusion that, generally, skills acquired from work more than 5 years in the past are of diminished relevance and do not provide a vocational advantage for adjustment to other work. As well, as noted above, adopting a variable standard depending on the occupational fields in which an individual previously worked would be impracticable to our adjudicative process due to the level of complexity it would add.

Regarding the comments on age, we note that we do not consider age when we assess whether an individual can perform their PRW. However, the Act requires us to consider age, in addition to other factors, which we do at the final step of the sequential evaluation processes when we consider whether an individual can perform other work.[34]

Concerns From Vocational Experts

Comment: We received a few comments from vocational experts relating to their role in the rulemaking process for this regulation, and providing evidence we may consider at steps four and five of the sequential evaluation of disability. One commenter asserted that, although we consulted other outside parties, we did not directly solicit input from vocational rehabilitation industry experts when we were developing the NPRM.

Response: As the commenter acknowledges, we consulted external stakeholders, including a diverse panel of legal aid groups, community advocacy organizations, and other claimant representative organizations when we formulated the proposed rule. We also consulted relevant studies and scholarship, as well as our employees who develop evidence for and make disability determinations and decisions. We appreciate the comments we received from the vocational rehabilitation industry experts during the NPRM public comment period, and we considered their input when formulating this final rule. Accordingly, this final rule is informed by a wide range of stakeholders, studies, and scholarship. Our regulations specify that we may use the services of vocational experts or other specialists when determining whether an individual's work skills can be used in other work and the specific occupations in which they can be used, or for similarly complex issues.[35] We will continue to do so.

Relevant Work Period Concerns in Certain Technical Situations

Comment: Two commenters asked us to revise how we consider the relevant work period in certain technical situations.[36] In these technical situations, we measure the relevant work period from a date other than when we decide whether an individual is disabled. For example, when an individual's date last insured is before their application date, we consider the relevant work period to end on the date last insured. These commenters suggested we adopt a single date from which to calculate the relevant work period, such as the application date, onset date, or date of adjudication. These commenters alleged that adopting such a change would provide process

[33] See POMS DI 25015.010 Education as a Vocational Factor, available at *https://secure.ssa.gov/poms.nsf/lnx/0425015010.*

[34] 42 U.S.C. 423(d)(2)(A) and 1382c(a)(3)(B).

[35] 20 CFR 404.1566(e) and 416.966(e).

[36] A guide to these technical situations is found in our subregulatory guidance at POMS DI 25001.001 Medical and Vocational Quick Reference Guide, available at: *https://secure.ssa.gov/apps10/poms.nsf/lnx/0425001001.*

simplification and help eliminate the challenges associated with relying on less recent work history information, which we referenced in the NPRM.

Response: While we generally agree with the goal of pursuing process simplification where appropriate, we are not adopting this suggestion at this time. In most situations, we measure the relevant work period from the date we decide whether an individual is disabled. Because the relevant work period changes as a claim proceeds through the appeals process, ending the use of a different relevant work period in these technical situations could create certain situations in which an individual's relevant work period would include work that was first performed after the date on which their non-medical eligibility for disability benefits lapsed. In these scenarios, we might be required to consider work that is not relevant to whether an individual was disabled as of the date when their non-medical eligibility lapsed. In addition, such a change would prevent us from considering the past work that is most meaningful to the determination of whether the individual was disabled as of that date.

Concerns Related to COVID–19

Comment: One commenter expressed support for our reduction of the relevant work period because, in the commenter's view, COVID–19 has significantly impacted the national economy, and it has caused significant and relevant workforce shifts.

Response: We acknowledge the general support for our proposal. However, the commenter did not provide evidentiary support on how specifically the COVID–19 pandemic's impact on the work force should inform how we evaluate PRW now and into the foreseeable future, so we cannot fully address that point. Although we recognize the continuing effects from the pandemic, our goal is to maintain rules that are appropriate for all times rather than reflecting a specific and unique period in time.

Setting a Minimum Threshold for Work To Be Considered PRW

Comment: In the NPRM, we asked the public whether we should revise our requirements so that individuals completing our forms do not need to report jobs held for short periods of time (*e.g.,* 1 month). We also asked what threshold we should set and what evidence would support this threshold. Several commenters supported this change, proposing that we should not ask for information about or consider any work performed for fewer than 1 month or 30 consecutive days.

Other commenters said we should not ask about or consider work performed for fewer than 3 months or 90 days. Some commenters asserted that a job performed for less time may constitute an unsuccessful work attempt. One commenter stated that employers often set a 90-day probationary period for new employees to assess if an individual can satisfactorily perform the job. Another commenter alleged that 3 months was the amount of time needed by the average person to learn all the skills required to perform a job adequately and that less time would not provide enough of an opportunity for an individual to learn the job or gain transferable skills. The commenter further asserted that making our adjudicators consider the relevance of such jobs is a waste of time and disincentivizes individuals from attempting to work.

A few commenters said that even if we would no longer consider work performed for less than 1 or 3 months, we should still collect some information about work performed for fewer than 3 months, as it may be evidence showing a limitation in an individual's ability to perform work activities.

Response: We appreciate the thoughtful comments we received on these questions. We agree with the commenters that we should further reduce the burden on individuals completing our forms and on our adjudicators by excluding work held for short periods from consideration as PRW. In addition, we agree that we should reduce the developmental burden placed on our adjudicators to develop detailed work history information, including the exertional and nonexertional requirements of an individual's past work, for jobs performed for short periods. Reducing this reporting and developmental burden to a shorter period is even more supportable when one considers that wage information we receive to determine whether work constitutes SGA,[37] which is one part of the definition of PRW, is based on monthly wage reporting.

However, we disagree with the rationale offered for the suggestion that we should not consider any work performed for less than 3 months. While the commenter linked this suggestion to an unsuccessful work attempt, a 3-month period has no special significance under our rules for unsuccessful work attempts,[38] and work performed for any period less than 6 months may be considered an unsuccessful work attempt. However, we do consider whether an individual performed the work long enough to learn the techniques, acquire information, and develop the skills needed for average performance in the job. Our rules have long recognized that skills may be gained in semi-skilled work performed for more than 1 month but less than 3 months.[39] We concluded that a 30-day minimum period is appropriate because it aligns better with these skill rules, but still accomplishes the goal of reducing burden and improving the accuracy of work information that we collect by not considering jobs held for a short period.

Therefore, in this final rule, as discussed above, we are adding two paragraphs to our rules in 20 CFR 404.1560(b)(1)(i) and (ii) and 416.960(b)(1)(i) and (ii) and revising a sentence in 20 CFR 404.1565(a) and 416.965(a) to state that work an individual started and stopped in fewer than 30 calendar days is not PRW. We will consider ''30 calendar days'' as a period of 30 consecutive days, including weekends, starting from the first day of work. When we consider whether work lasted 30 calendar days, we generally do not consider the total number of hours or days worked during that period, or whether the work was full-time or part-time. The 30 calendar days requirement is separate from the consideration of substantial gainful activity or whether the individual worked long enough to learn how to do the work, although the work performed during the 30 calendar days may count toward the time needed for the individual to learn to do the work. The 30 calendar days requirement also applies if the individual was self-employed or an independent

[37] The criteria for determining whether an individual has done SGA are set forth in our regulations at 20 CFR 404.1571 through 404.1576 and 416.971 through 416.976.

[38] An unsuccessful work attempt is defined in our regulations at 20 CFR 404.1574(c) and 416.974(c). Although we note that SSR 84–25, Titles II and XVI: Determination of Substantial Gainful Activity if Substantial Work Activity is Discontinued or Reduced—Unsuccessful Work Attempt, contains specific criterion for work activity ''of 3 months or less,'' this language was superseded by our final rules Unsuccessful Work Attempts and Expedited Reinstatement Eligibility published in October 2016, 81 FR 71367. There is no special significance for a 3-month period under our current rules, and the rules now dictate that work performed for any period less than 6 months may be considered an unsuccessful work attempt. We plan to rescind the outdated SSR at the earliest opportunity.

[39] *See* 20 CFR 404.1568 and 416.968. *See also* SSR 00–4p: Titles II and XVI: Use of Vocational Expert and Vocational Specialist Evidence, and Other Reliable Occupational Information in Disability Decisions.

contractor;[40] we will consider whether the individual was engaged in the same type of work for 30 calendar days, even if individual work assignments or contracts each lasted fewer than 30 calendar days.

We are also revising our Forms SSA–3368–BK (Disability Report—Adult) and SSA–3369–BK (Work History Report) to include an instruction that individuals should not list work information for jobs that started and stopped in fewer than 30 days.

Work History Forms

Question to the Public: In the NPRM, we asked the public to identify potential simplifications to Form SSA–3369–BK (OMB No. 0960–0578; Work History Report) or other aspects of the work history information collection process, without compromising our ability to collect the information required to make a fact-based disability determination. In response, we received several comments addressing our form instructions, the content of the questions we ask, the process we use to collect work history information, and increasing form accessibility. Details about these suggestions follow.

Comments on Form Instructions

Comment: Some commenters suggested we provide additional guidance in our form instructions for Form SSA–3369–BK to increase the accuracy of information reported to us. One commenter asked us to include a sample page in these instructions, while others suggested we provide examples of the weights of common household items.

Response: We agree with the goal of the commenters to increase the accuracy of information reported to us on the Form SSA–3369–BK by improving our form instructions. We have improved the instructions for completing the form by adding a list of information needed to complete the form and adding examples throughout, including a sample column that shows how individuals should complete the requested information. We have also updated the form's instructions by adding information about how individuals can contact us for help completing the form. We made similar revisions to the Form SSA–3368–BK (OMB No. 0960–0579; Disability Report-Adult). At this time, however, we have declined to add more detailed instructions about the weights of common household items because what constitutes ''common household items'' varies by household and over time; more importantly, the weights of many household items may not align with the weight categories used in our program rules, so including those weights could cause confusion for the public.

Changes to the Questions on the Work History Forms

Comment: We received several comments suggesting changes to the content of the questions on the Form SSA–3369–BK and the other forms we use to collect work history information (Form SSA–3368–BK and Form HA–4633 (OMB No. 0960–0300, Claimant's Work Background)):

A few commenters suggested that we reduce the burden on individuals completing our forms by removing some detail from the questions we ask on the Form SSA–3369–BK. Some other comments suggested we revise our forms in specific ways, such as adding space for claimants to provide more information, describing terms being used, and analyzing the forms for literacy level.

Other commenters suggested alternative, streamlined language for existing questions, and several commenters proposed additional questions. For example, some commenters said we should ask whether an individual had trouble completing tasks in their jobs, or whether they received special accommodations to complete their past work. Another commenter asked us to request more narrative, detailed responses in several areas rather than using questions in check-box format. Several commenters asked us to collect more information about the mental demands of an individual's past work. One commenter said we should add questions about specific supervisory duties, such as hiring and firing, evaluating worker performance, and assigning work. Other commenters suggested we add questions to determine whether work involved modified job tasks, accommodations, or a supported work environment, and whether a job ended because of the individual's impairments.

Response: We appreciate the specific, well-thought-out suggestions submitted in response to our question to the public. In response to the comments that we completely remove questions about detailed information on work demands, we are ultimately not adopting this change. We need this information to accurately assess an individual's ability to perform PRW or to adjust to other work.

However, we are making changes to the form consistent with the comments that we should collect more detailed information about an individual's work history by revising the relevant questions accordingly. To collect more information about the mental demands of an individual's past work, we are revising questions about tasks performed, supervisory duties, tools and equipment used, writing, and social interactions in a typical workday or workweek.

We are also adding a question to Forms SSA–3368–BK and SSA–3369–BK asking an individual to explain how their impairment(s) would affect their ability to do each job. As well, we are revising Form SSA–3369–BK to include an explanation and examples of how to report the number of hours and minutes an individual stood, walked, and performed other activities in a day. Similarly, we changed a question to ask individuals to describe what tasks they did in a typical workday instead of what they did ''all day.''

On the Form SSA–3368–BK, we continue to ask individuals receiving Supplemental Security Income (SSI) payments whether they received vocational rehabilitation, work accommodations, or other support services to continue performance of a job. We also continue to ask individuals whether their most recent work ended because of their impairments, and whether their employer changed their work duties at some point before the work ended.

We are not adding questions to Form SSA–3369–BK to determine whether work other than an individual's most recent work ended because of their impairments or involved accommodations. Adding such a question could inject unnecessary complexity into Form SSA–3369–BK because it and other forms, such as Form SSA–821 (Work Activity Report—Employee), collect information that routinely allows adjudicators to determine whether an individual received accommodations in a given job and whether a work attempt was unsuccessful.

We note that more detailed information about all the changes we are making to the forms cited here can be found in the Information Collection Request documentation, which we will upload to *https://www.reginfo.gov* in association with this final rule.

[40] This would apply to ''gig economy'' type jobs as well, provided they meet the other requirements. For example, if an individual completed 20 different shopping trips for a grocery delivery service in a 30 calendar day period, we would still require the individual to report that work experience as a single ''gig'' delivery job, because the individual did the same job for the 30 calendar days. This is true even though each individual shopping trip started and stopped within the 30 calendar days period.

Suggestions To Prepopulate the Forms With Information From SSA Records

Comment: We received several comments addressing the process we use to collect work history information. Multiple commenters suggested that we prepopulate work history forms with employment information we may already have through *my Social Security* (mySSA) accounts,[41] data matching agreements with other agencies, or other sources. Some commenters supported this suggestion by noting that we use earnings queries at administrative law judge hearings to verify past work.

Other commenters suggested that we simplify the disability application process by capturing an individual's complete work history on Form SSA–3368–BK, ending use of Form SSA–3369–BK altogether, or by making Form SSA–3369–BK available to submit electronically.

Response: While we appreciate these comments and agree with the general goal of simplifying the application process, we do not think prepopulating work history forms is feasible or advisable at this time. Because we now require an individual to report only 5 years of work history, we expect that work history forms will already be significantly less burdensome to complete. As well, several factors make this suggestion inadvisable from our perspective. Our employment and earnings information is subject to a variety of laws and rules that limit how it may be used,[42] and it is maintained in a format that would not easily translate to the work history forms. Therefore, designing an automated process to prepopulate work history forms would pose complex challenges to ensure legal compliance and develop systems upgrades. In addition, prepopulating forms might be confusing for some individuals (for example, our data might use an employer name the individual is not familiar with, because of differences between the employer's legally incorporated name and the name they use with the public or their staff). Moreover, our employment and earnings information will continue to be available through mySSA for those individuals who think the information would help them complete work history forms.

We have long relied on individuals to provide information about their past work, and think it is appropriate to continue that process.[43] Pre-filled work history forms might have unintended consequences. For example, individuals might assume the pre-filled information is correct and complete without a careful review, leaving the form inaccurate or incomplete. Because reports from the individual are most complete (we only have annual earnings from employers and not necessarily information about specific work performed), we may very well be introducing inadvertent errors and causing confusion for individuals, further prolonging the process. A longer process and creating errors for individuals to fix run contrary to the purpose of this regulation. Additionally, individuals might be confused by the pre-filled information and require more help to complete the form.

Pre-filling forms can reduce burden in certain circumstances, and some of the unintended consequences could potentially be mitigated. Ultimately, though, at this time we conclude that the time, operational, technological, and burden-to-respondent costs of remediating errors stemming from an incomplete or incorrect prefill would outweigh the benefits of a prefill approach. Given these concerns, we do not think prepopulating forms is possible or advisable at this time.

While we do provide individuals with an advance copy of their records, including work history and medical information, at the hearings level of the disability process, this is not a parallel to the commenter's request for prepopulated forms. At the hearings level, the records we provide contain both the information that the individual reported to us at the initial application and reconsideration stages of the disability process, as well as our own historical wage reporting data. Thus, a large portion of those records is simply resharing information the individual already gave us themselves, while the wage data, as previously explained, is more limited, may be incomplete, may lag (particularly since it comes from IRS), and may include employer names with which the individual is unfamiliar. In contrast, the commenter was asking for us to pre-fill the initial work history forms for them, which is entirely different.

We also disagree with the suggestion that we discontinue our use of Form SSA–3369–BK. Our use of Form SSA–3368–BK is intended to reduce the overall information collection burden for many individuals because we use Form SSA–3369–BK only when an individual had two or more jobs during the relevant work period. Revising the relevant work history period from 15 years to 5 years in this final rule will increase the likelihood that we will capture individuals' complete work histories on Form SSA–3368–BK, eliminating the need to complete a separate Form SSA–3369–BK. For situations where there were two or more jobs during the preceding 5-year period, though, Form SSA–3369–BK will still be useful and appropriate.

Suggestions To Increase Form Accessibility

Comment: We received several comments focused on increasing accessibility in the forms we use to collect work history information and in our disability process generally, including for individuals with limited English proficiency, sensory disabilities, illiteracy, or limited vision. One commenter suggested that in addition to our existing written instructions, we provide video instructions on how to complete the form with optional American Sign Language interpretation, which would benefit Deaf individuals. Several commenters requested that we translate these forms into multiple languages, as this would increase access among individuals for whom English is not a first language and minimize the need for additional assistance from interpreters, translators, or others. Another commenter asserted that we should take steps to make the forms more accessible by increasing the relevance and clarity of questions, analyzing the complexity of the language used in our forms, and engaging experts to develop questions that are more easily understandable.

Response: We chose not to adopt the suggestion to create an instructional video. However, we agree every effort should be made to ensure our forms are accessible to all. Our Language Access Plan demonstrates our commitment to providing substantially equal and meaningful access to Social Security benefits and services to all people, regardless of their English proficiency.[44] We have revised the instructions on

[41] For more information, see *https://www.ssa.gov/myaccount/.*

[42] We may only disclose personal information as authorized by the Privacy Act, the Social Security Act, and other applicable Federal laws. *See* 5 U.S.C. 552a(b) and (e)(10); 42 U.S.C. 1306(a). Our use and disclosure of earnings and employment data is further restricted by the Internal Revenue Code. *See* 26 U.S.C. 6103. We have established processes by which an individual can request their yearly earnings totals or an itemized earnings statement (*e.g.,* Form SSA–7050–F4 Request For Social Security Earnings Information).

[42] *See* SSR 82–62 (the individual ''is the primary source for vocational documentation''); also *see* 20 CFR 404.1560(6) and 416.960(b) (''We will ask you for information about work you have done in the past'').

[43] *Id.*

[44] SSA Language Access Plan, available at: *https://www.ssa.gov/eeo/documents/LAP2024-2026.pdf.*

Form SSA–3368–BK to include our toll-free number in case an individual needs assistance. On Forms SSA–3368–BK and SSA–3369–BK, we have added an explanation that we provide interpreters free of charge. In accordance with our regulations that require us to ensure that our forms use plain language, we have revised our forms to improve their readability. We also note that our forms online are Section 508 compliant.[45] We also make reasonable modifications to our policies, practices, and procedures and take appropriate steps to ensure effective communication, including by providing appropriate auxiliary aids and services, when needed for individuals with disabilities within the meaning of Section 504 of the Rehabilitation Act.[46]

Question Regarding the New Proposed Burden for Completion of Forms

Comment: Our current estimate to complete Form SSA–3369–BK for a 15-year work history is 60 minutes. In the NPRM, we asked commenters whether they agreed with our new time burden estimate of 40 minutes to complete the form, assuming implementation of the proposed 5-year work history requirement.

Commenters provided a range of diverse suggestions regarding our prior and proposed new burdens, both for Form SSA–3369–BK (which we explicitly asked about) and Form SSA–3368–BK (which we did not). One commenter, a legal aid organization, noted that in its experience individuals often required far longer than our estimated average time burden to complete Forms SSA–3368–BK and SSA–3369–BK, even with its assistance. This commenter disputed our estimate that the revised Form SSA–3368–BK would take 80 minutes to complete, on average, and that the revised Form SSA–3369–BK would take 40 minutes on average, citing a continuing ''high information burden'' under the new final rules. One commenter stated the prior 60-minute estimate we used prior to this final rule would still remain accurate because individuals would respond to the shorter relevant work period by taking more time to provide more accurate information about their past jobs.

In contrast, other commenters stated we had not lowered the burden estimate enough. These commenters offered new time burden approximations of 20 or 30 minutes instead of our 40-minute estimate for Form SSA–3369–BK. Finally, one commenter indicated that, while this rule change should warrant a reduction in time burden, it would be difficult to quantify the amount of the reduction.

Response: We appreciate the commenters' responses to our question. The time burden we report is meant to represent an average (arithmetic mean) of the actual time burdens all individuals experience, which vary widely from individual to individual. The range of responses and lack of agreement on what the actual burden should be underscored the challenges involved in estimating a time burden that will apply to most individuals. For that reason, we will retain our 40-minute average time burden estimate.

Suggestions To Update the Occupational Information We Currently Use

Comment: Several commenters said that we should update our vocational rules and use more current sources of occupational information, with many stating that the occupational information in the Dictionary of Occupational Titles (DOT) is no longer current. A few commenters encouraged us to stop use of the DOT and begin use of the Occupational Requirements Survey (ORS),[47] which some representatives say they already reference when questioning vocational experts during hearings. One commenter questioned our future plans for more global medical-vocational rule reforms, specifically referencing other rulemakings we might publish in this area. Another commenter asserted that we should update the medical-vocational rules (commonly known as the ''grid rules'') and our age categories.

Response: We appreciate the comments regarding updating our medical-vocational rules and our sources of occupational information. These comments are outside of the scope of this final rule. This final rule is narrowly focused on revisions to the relevant work period and the related information collection burdens when considering PRW.

Comment: One commenter stated that we should not pursue a final rule because of its ''intermediate'' nature, and because we have not described our forthcoming efforts in other disability-related areas.

Response: We use the word ''intermediate'' in the title to indicate that we are making the changes in the context of reviewing all our disability rules. However, given that any other disability rule changes would be made in separate future rulemakings, there is no reason to delay proceeding with this final rule. The change in relevant work period rules stands alone and does not depend on other, potential future rule changes.

Suggestions Regarding the Medical-Vocational Profiles

Comment: We received several comments in support of our proposal to use the 5-year relevant work period in the no work medical-vocational profile. One commenter said that this change would yield more realistic results for individuals over the age of 50 with adverse vocational profiles, without creating inaccuracy in disability analysis for individuals under the age of 50. Other commenters suggested that we make additional revisions to the other two current medical-vocational profiles (the arduous unskilled and lifetime commitment profiles) in this rulemaking or future rulemakings. Examples of these suggestions included lowering the minimum age category required by the lifetime commitment profile, raising the minimum education category required by the medical-vocational profiles (profiles), and reducing the arduous unskilled profile's work history requirement. One of these commenters indicated that adopting their suggestion would make it easier for an individual to meet the criteria of these profiles. Others indicated that adopting their suggestions would improve the vocational relevance of the profiles, thereby improving their accuracy.

A few commenters opposed the proposal to use the 5-year relevant work period in the no work profile. One commenter said the rationale in the NPRM would better support revising all of the profiles so that they all consider no more than 5 years of work history, while another commenter said we should continue to consider 15 years of work history for the no work profile. A few commenters asked that we no longer consider the profiles at all, while another commenter supported keeping the profiles because they provide additional avenues for claimants to be allowed disability benefits. One commenter opined that the proposed new no work profile was unsupported, because information from the BLS' ORS and Occupational Employment Statistics (OES) shows there are millions of jobs in the national economy that an individual with no work experience and no high school education could do.

Response: We agree with the commenters supporting the proposal to use the 5-year relevant work period in the no work profile. We agree that

[45] Section 508 of the Rehabilitation Act of 1973, also issued under 29 U.S.C. 798.

[46] *See generally* 29 U.S.C. 794.

[47] See the ORS Home Page: U.S. Bureau of Labor Statistics, available at: *https://www.bls.gov/ors/#production.*

aligning the no work profile with the 5-year relevant work period helps keep our rules consistent and reflects the vocational disadvantage of remaining out of the workforce for an extended period of time due to the effects of a severe medically determinable impairment(s).

We also appreciate the comments that suggested additional changes to the current profiles. Although we are not adopting these suggestions in this final rule, we may consider further revisions to the profiles in a future rulemaking.

We disagree with the comments stating that we should no longer use the arduous unskilled work and lifetime commitment profiles because they require consideration of work performed for more than 5 years. The high exertional and nonexertional demands of work considered under these profiles are likely to remain consistent throughout the period considered, including for work performed during the relevant work period. The information we have in these claims is therefore current, more likely to be accurate, and unlikely to require additional development. We may, however, consider further revisions to these profiles in a future rulemaking proceeding.

We also disagree with the comments stating that we should retain consideration of 15 years of work history for the no work profile, and that we should no longer consider the no work profile at all. Although one commenter asserted that information from BLS showed there were millions of jobs in the national economy that an individual with no work experience and no high school education could do, we do not find this comment persuasive. The purpose of the no work profile is to reflect the vocational disadvantage of remaining out of the workforce for an extended period of time due to the effects of a severe medically determinable impairment(s) together with the combination of being of older age and not completing high school. The BLS data cited by the commenter opposing the no work profile does not reflect information about all the vocational factors included in the no work profile. The commenter's data also do not address how being out of the work force for an extended period of time affects the ability to work.

Concerns Regarding the Medical-Vocational Guidelines

Comment: One commenter stated that they could not support the proposed change because we had not discussed how the proposed policy affects the evaluation of disability under the medical-vocational guidelines.[48] They also opined that we should have provided an explanation or analysis of how the step five factors were reconsidered or why they were not reconsidered in light of the new policy. The commenter alleged that such a discussion is necessary because, in some circumstances, an individual's work experience will direct a finding of ''disabled'' or ''not disabled'' under some rules in the medical-vocational guidelines.

Response: The commenter incorrectly assumes that changing the definition of the relevant work period will affect the evaluation of disability under the medical-vocational guidelines. The regulation will affect some of the criteria present in the medical-vocational guidelines, but it will not alter how we use those rules. For example, while the medical-vocational guidelines consider the existence of an individual's transferable skills, the time period during which those skills were acquired does not affect how the medical-vocational guidelines operate.

We acknowledge that several rules in the medical-vocational guidelines direct outcomes based on an individual's work experience. Specifically, some rules direct an outcome of ''not disabled'' where an individual has acquired skills from their PRW that will transfer to other work.[49] These rules reflect our conclusion that individuals with transferable skills have a vocational advantage in their ability to adjust to other work when compared to individuals who do not have such skills.

However, although the Act requires us to consider an individual's work experience,[50] it is within our regulatory authority to define the time period for relevant work experience that provides a vocational advantage. This changed definition does not affect the validity of the medical-vocational guidelines, even though it may change decisional outcomes for some individuals.

Other Suggested Changes to Our Adjudication Process

Comment: Several commenters offered additional suggestions about how we could change our adjudication process. For example, one commenter suggested that we should strive to make the adjudication process easier for individuals to navigate without professional assistance, and that we should hire independent navigators to assist people applying for benefits. The commenter also suggested we should add more flexibility and expand the ''timelines of processes.'' Another commenter said that the proposed change should be amended to add more discretion to our adjudication process, such as being more flexible on evaluating SGA and allowing disabled persons to work and gain more income while receiving benefits.

Response: We acknowledge the suggestions about our adjudication process, but suggestions unrelated to the consideration of PRW are outside the scope of this final rule. However, we note that individuals may visit a field office for in-person assistance, contact us by telephone or mail, or may visit our website at *https://www.ssa.gov* for assistance in applying for benefits. Furthermore, we want to clarify that the Act and our rules allow disabled individuals to work and earn up to certain amounts while still receiving benefits. For more information, see Publication No. 05–10060 Incentives to Help You Return to Work.[51]

Concerns About Financial Impact of the Regulation

Comment: A few commenters opposed our proposal because it would increase the allowance rate, requiring new General Fund and Trust Fund expenditures that the commenters characterized as ''unfair to taxpayers.'' One commenter asserted it is likely that the NPRM significantly understated the negative impact of increased allowances on work and employment and payroll taxes. To support this assertion, the commenter cited a 2022 study,[52] which focused on change in the Austrian disability program and found a nearly one-for-one relationship between the number of claimants denied disability benefits at older ages and continued employment. In other words, this study found that if individuals were denied benefits at older ages, they would continue to work (and thus contribute to employment and payroll taxes) in Austria. Another commenter stated the policy would give disability benefits to too many people. This commenter also said the proposed 5-year relevant work period was contradicted by an existing subregulatory instruction (specifically

[48] 20 CFR part 404, subpart P, appendix 2.

[49] See, *e.g.,* 20 CFR part 404, subpart P, appendix 2, sections 201.03, 201.07, 202.03, and 202.07.

[50] 42 U.S.C. 423(d)(2)(A) and 1382c(a)(3)(B).

[51] Available at: *https://www.ssa.gov/pubs/EN-05-10060.pdf.*

[52] Ahammer, Alexander and Packham, Analisa. *Disability Insurance Screening and Workers' Health and Labor Market Outcomes* (2022). W.E. Upjohn Institute for Employment Research. *https://research.upjohn.org/cgi/viewcontent.cgi?article=1326&context=empl_research.*

our Program Operations Manual System (POMS)) referencing a 7-year period.[53]

Response: While this final rule is projected to increase General and Trust Funds expenditures, a fact we disclosed in the NPRM, we disagree this increase is ''unfair to taxpayers.'' The projected increase in allowances represents a small percentage of yearly allowances and of the total number of individuals served by our disability programs. For example, we stated in our NPRM that Social Security Disability Insurance (SSDI) allowances are projected to increase by approximately 20,000 individuals per year due to implementation of this final rule. Considering that the SSDI program added at least 640,000 new recipients each year between 2008 and 2020 and added at least 540,000 new recipients in subsequent years,[54] the inclusion of 20,000 new recipients per year for fiscal years 2025 through 2033 represents a relatively small increase of approximately 4 percent.

In addition, our Office of the Chief Actuary (OCACT) projected that this final rule will produce a net reduction in scheduled Old-Age and Survivors Insurance (OASI) benefits of approximately $6.3 billion over fiscal years 2024 through 2033, which will reduce the financial stress on another important Federal insurance program (although, per the information provided in the ''Anticipated Transfers to Our Program,'' overall this regulation does result in significant net costs to the Trust Funds. Please see this section in the preamble of this final rule for complete transfer figures relating to the regulation).

We similarly disagree that the Austrian study cited by the commenter provides evidence that we have understated the potentially depressing effect of the rule on payroll taxes. By citing this particular study, the commenter assumes that if we did not implement this final rule and increase the number of allowances, many of the affected individuals would return to work (''nearly one for one''), and would thus contribute more taxes. However, this assumption cannot be made based on the evidence provided. The Austrian disability program's criteria do not align with ours, and the jobs available in the United States national economy may not match Austria's either. For example, even the strictest Austrian disability rule allowed applicants with up to 50 percent capacity to receive benefits, while the United States does not grant disability benefits to individuals who demonstrate such high work capacity. Given these differences in disability criteria and the type of work available in the national economy, it is not appropriate to extrapolate the results of the Austrian study to potential outcomes for us. Indeed, the article's authors themselves state that their findings may not be most relevant for other countries such as the United States.

For the above reasons, and because of the long-established, meticulous, and well-supported nature of OCACT's work, we are confident that OCACT's projections on the financial effects of this final rule are reasonable and of the correct magnitude.

In response to the commenter who cited the subregulatory instruction (POMS), we note this comment appears to reflect a misunderstanding. The subregulatory instruction the commenter cited relates to a topic that is different from the relevant work period.

Ultimately, when weighing the above considerations and the anticipated advantages this final rule will offer to disability applicants, such as better reflecting the diminishing relevance of unused work skills over time, improving customer service, and making our adjudication process more efficient, we find the cost of this rule is justified by the overall benefits to the public.

Technical Concerns

Comment: One commenter stated that we should not pursue a final rule because the NPRM does not conform to Title III of the Fiscal Responsibility Act of 2023.

Response: This rule complies with the cited provisions of the Fiscal Responsibility Act of 2023, known as the Administrative Pay-As-You-Go Act of 2023. That Act does not impose requirements at the NPRM stage. The Director of OMB has waived the requirements of section 263 of the Fiscal Responsibility Act of 2023 (Pub. L. 118–5) pursuant to section 265(a)(2) of that Act.

Comment: One commenter stated that we should not pursue a final rule because we have not completed a Regulatory Impact Analysis (RIA) or a federalism analysis.

Response: Regulations that have an annual effect on the economy of $200 million or more are deemed economically significant and have additional analytical requirements under Executive Order (E.O.) 12866, such as requiring an RIA. As we reported in the NPRM, our OCACT estimated this rule will technically meet this threshold. For the period of FY 2024 through FY 2033, OCACT estimated an increase in scheduled SSDI benefits of $22.2 billion, a net reduction in scheduled OASI benefits of $6.3 billion, and an increase in Federal SSI payments of $3.8 billion in total. OCACT also estimated that the increase in the number of individuals who would be receiving disability benefits attributable to implementation of this rule would reduce OASDI payroll tax revenue over the next 10 years by a total between $200 million and $300 million.

These figures indicate the commenter was correct in their assertion about the need for an RIA, but we disagree with the commenter's characterization that we did not conduct the necessary RIA analyses at the NPRM stage. While we did not provide a separate RIA document, our NPRM included the elements of an RIA that were relevant to our proposal, such as our reporting of the OCACT estimated costs, our analysis of transfer impacts and administrative costs, our explanation of the assumptions underlying the NPRM, and our touching on alternatives to our proposal. While not a separate RIA document, these analyses from the NPRM fulfill our obligations to review the direct effects of the rulemaking. Nevertheless, for ease of readers, we are consolidating these RIA elements into a separate document and publishing them in the **Federal Register**. We are also providing it as a supplemental document in the supporting materials section on *https://www.regulations.gov* under Docket No. SSA–2023–0024.

Regarding any federalism issues, the NPRM included our determination that the proposed rule would not have sufficient federalism implications to warrant the preparation of a federalism assessment, and thus further analysis in this area is not required. This final rule includes that same determination.

Regulatory Procedures

E.O. 12866, as Supplemented by E.O. 13563 and Amended by E.O. 14094

We consulted with the Office of Management and Budget (OMB), and OMB determined that this final rule meets the criteria for a section (3)(f)(1) significant regulatory action under E.O. 12866, as supplemented by E.O. 13563 and amended by E.O. 14094, and is subject to OMB review.

Anticipated Transfers to Our Program

OCACT estimates that implementation of this final rule will result in an increase in scheduled SSDI benefits of $22.2 billion, a net reduction

[53] See POMS DI 28015.310, available at *https://secure.ssa.gov/poms.nsf/lnx/0428015310.*

[54] See *https://www.ssa.gov/OACT/STATS/dibStat.html.*

in scheduled OASI benefits of $6.3 billion, and an increase in Federal SSI payments of $3.8 billion in total over fiscal years 2024 through 2033, assuming implementation for all decisions made on or after the effective date. OCACT also estimates that the increase in the number of individuals who would be receiving disability benefits attributable to implementation of this rule would reduce OASDI payroll tax revenue over the next 10 years by a total between $200 million and $300 million, due to the diminished need to make extraordinary efforts to maintain even a small amount of earnings at a fraction of their earnings level prior to becoming disabled. We refer the reader to the NPRM for a more detailed analysis.

Anticipated Net Administrative Savings to SSA

The Office of Budget, Finance, and Management estimates that this final rule will result in net administrative savings of $1 billion for the 10-year period from FY 2024 to FY 2033. The administrative savings are primarily driven by time savings from evaluating work over a shorter period for initial claims, reconsideration requests, and hearings processed in our field offices, State disability determination services, and hearings offices. In addition, due to a shorter PRW period, we expect fewer disability reconsiderations, and hearings requests over the 10-year period, leading to sizeable administrative savings. Savings are offset by administrative costs stemming from systems updates and training costs upon implementation, and post-eligibility actions for additional beneficiaries and non-disabled dependents thereafter.

Anticipated Time-Savings and Other Qualitative Benefits to the Public

This final rule will reduce the obstacles that individuals with significant physical or mental impairments face in their efforts to obtain the crucial benefits our disability programs provide. Our experience indicates that individuals often find it difficult to gather and provide accurate information about their work histories, and that those difficulties tend to increase when they are asked to provide detailed information about work performed in the more distant past. Reducing individuals' need to gather and report information about work performed beyond a 5-year relevant period will increase the likelihood we will have a complete and accurate work history report. As discussed in the Paperwork Reduction Act section below, we estimate a minimum of 938,735 hours of time savings in direct paperwork burden experienced by claimants as well as additional time-savings associated with the overall process of completing the relevant forms. In addition, we estimate opportunity costs of this time-savings to be at least $62,049,205 annually.

Anticipated Costs to the Public

As discussed in the preamble, our process for determining if an individual is disabled includes evaluating whether the individual, given their RFC, can perform their PRW. If an individual can perform their past work, then we will determine they are not disabled. By reducing the relevant work period to 5 years, there are likely, on the margins, individuals who held jobs longer than 5 years in the past who may still be able to perform those jobs today. Under the prior rules the individual would be found not disabled; however, under this final rule change the individual would be allowed. A subset of these individuals who would have previously been found not disabled could have worked in the absence of benefits. This reduction in labor force participation imposes some social costs to the public (OCACT estimates $1.5–$2.5 billion in reduced earned income by wage earners over the next 10 years). However, as discussed in the preamble, the projected increase in allowances represents only a relatively small percentage and the potential social cost of reduced employment generated by this final rule is likely to be quite low.[55]

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as a ''major rule,'' as defined by 5 U.S.C. 804(2).[56]

Compliance With Section 263 of the Fiscal Responsibility Act of 2023 (Pub. L. 118–5)

The Director of OMB has waived the requirements of section 263 of the Fiscal Responsibility Act of 2023 (Pub. L. 118–5) pursuant to section 265(a)(2) of that Act.

E.O. 13132 (Federalism)

We analyzed this final rule in accordance with the principles and criteria established by E.O. 13132 and determined that this final rule will not have sufficient federalism implications to warrant the preparation of a federalism assessment. We also determined that this final rule will not preempt any State law or State regulation or affect the States' abilities to discharge traditional State governmental functions.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities, as it affects individuals only. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

SSA already has existing OMB PRA-approved information collection tools relating to this final rule: Claimant's Work Background (HA–4633, OMB No. 0960–0300); Work History Report SSA–3369, OMB No. 0960–0578); and Disability Report—Adult (SSA–3368, OMB No. 0960–0579). This final rule provides for a shorter work history requirement than we previously required; therefore, we expect this rule will significantly reduce public reporting burdens associated with these forms. The sections below report our current public reporting burdens for these existing OMB-approved forms and project the anticipated burden reduction and new burden figures after implementation at the final rule stage. We will obtain OMB approval for the revisions to the collection instruments concurrently with the effective date of this final rule.

The following chart shows the time burden information associated with this final rule:

[55] Maestas, Nicole, Kathleen J. Mullen, and Alexander Strand. 2013. ''Does Disability Insurance Receipt Discourage Work? Using Examiner Assignment to Estimate Causal Effects of SSDI Receipt.'' *American Economic Review,* 103 (5): 1797–1829. French, Eric, and Jae Song. 2014. ''The Effect of Disability Insurance Receipt on Labor Supply.'' *American Economic Journal: Economic Policy* 6(2): 291–337.

[56] A ''major rule'' means any rule that the Administrator of the Office of Information and Regulatory Affairs at OMB finds has resulted in or is likely to result in: (a) an annual effect on the economy of $100 million or more; (b) a major increase in costs or prices for consumers, individual industries, Federal agencies, State agencies, local government agencies, or geographic regions; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets (5 U.S.C. 804(2)).

OMB #; form #; CFR citations	Number of respondents	Frequency of response	Current average burden per response (minutes)	Current estimated total burden (hours)	Anticipated new burden per response under regulation (minutes)	Anticipated estimated total burden under regulation (hours)	Estimated burden savings
0960–0300 HA–4633 (Paper Form) 410.1560; 416.960 ..	32,300	1	30	16,150	20	10,767	5,383
0960–0300 HA–4633 (ERE) 410.1560; 416.960	157,700	1	30	78,850	20	52,567	26,283
0960–0578 SSA–3369 (Paper Form) 410.1560; 416.960	1,553,900	1	60	1,553,900	40	1,035,933	517,967
0960–0578 SSA–3369 (EDCS Screens) 410.1560; 416.960	38,049	1	60	38,049	40	25,366	12,683
0960–0579 SSA–3368 (Paper Form) 410.1560; 416.960	6,045	1	90	9,068	80	8,060	1,008
0960–0579 SSA–3368 (EDCS Screens) 410.1560; 416.960	1,263,104	1	90	1,894,656	80	1,684,139	210,517
0960–0579 i3368 (Internet Screens) 410.1560; 416.960	989,361	1	90	1,484,042	80	1,319,148	164,894
Totals	4,040,459	.....	.....	5,074,715	.....	4,135,980	938,735

The following chart shows the theoretical cost burdens associated with this final rule:

OMB #; form #; CFR citations	Number of respondents	Anticipated estimated total burden under regulation from chart above (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office or teleservice centers (minutes) **	Total annual opportunity cost (dollars) ***
0960–0300 HA–4633 (Paper Form) 410.1560; 416.960	32,300	10,767	* $13.30	.....	*** $143,201
0960–0300 HA–4633 (ERE) 410.1560; 416.960	157,700	52,567	* 31.48	.....	*** 1,654,809
0960–0578 SSA–3369 (Paper Form) 410.1560; 416.960	1,553,900	1,035,933	* 13.30	.....	*** 13,777,909
0960–0578 SSA–3369 (EDCS Screens) 410.1560; 416.960	38,049	25,366	* 13.30	** 21	*** 514,484
0960–0579 SSA–3368 (Paper Form) 410.1560; 416.960	6,045	8,060	* 13.30	** 21	*** 135,341
0960–0579 SSA–3368 (EDCS Screens) 410.1560; 416.960	1,263,104	1,684,139	* 13.30	** 21	*** 28,278,793
0960–0579 i3368 (Internet Screens) 410.1560; 416.960	989,361	1,319,148	* 13.30	.....	*** 17,544,668
Totals	4,040,459	4,135,980	.....	.....	*** 62,049,205

* We based this figure on the average DI payments based on SSA's current FY 2024 (this is the most current figures we have for the DI payments) data (*https://www.ssa.gov/legislation/2024FactSheet.pdf*); on the average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_nat.htm*).

** We based this figure on the average FY 2024 wait times for field offices and hearings office, as well as by averaging both the average FY 2024 wait times for field offices and teleservice centers, based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

SSA submitted a single new Information Collection Request which encompasses the revisions to all three information collections (currently under OMB Numbers 0960–0300, 0960–0578, and 0960–0579) to OMB for the approval of the changes due to this final rule. After approval at the final rule stage, we will adjust the figures associated with the current OMB numbers for these forms to reflect the new burden. We are soliciting comments on the burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize the burden on respondents, including the use of automated techniques or other forms of information technology. If you would like to submit comments, please send them to the following locations:

Office of Management and Budget, Attn: Desk Officer for SSA, Fax Number: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

Social Security Administration, OLCA, Attn: Reports Clearance Director, Mail Stop 3253 Altmeyer, 6401 Security Blvd., Baltimore MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

You can submit comments until May 20, 2024, which is 30 days after the publication of this notice. However, your comments will be most useful if you send them to SSA by May 20, 2024, which is 30 days after publication. To receive a copy of the OMB clearance package, contact the SSA Reports Clearance Officer using any of the above contact methods. We prefer to receive comments by email or fax.

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, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

The Commissioner of Social Security, Martin O'Malley, having reviewed and approved this document, is delegating the authority to electronically sign this document to Faye I. Lipsky, who is the primary **Federal Register** Liaison for SSA, for purposes of publication in the **Federal Register**.

Faye I. Lipsky,

Federal Register Liaison, Office of Legislation and Congressional Affairs, Social Security Administration.

For the reasons set out in the preamble, we amend 20 CFR parts 404 and 416 as set out below:

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

Subpart P—Determining Disability and Blindness

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

Authority: 42 U.S.C. 402, 405(a)–(b) and (d)–(h), 416(i), 421(a) and (h)–(j), 422(c), 423, 425, and 902(a)(5); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189; sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 2. Amend § 404.1560 by revising paragraph (b)(1) to read as follows:

§ 404.1560 When we will consider your vocational background.

* * * * *

(b) * * *

(1) *Definition of past relevant work*—(i) *What is past relevant work.* Past relevant work is work that you have done within the past five years that was substantial gainful activity and that lasted long enough for you to learn to do it (see § 404.1565(a)). We will not consider work to be past relevant work if you started and stopped it in fewer than 30 calendar days (see paragraph (b)(1)(ii) of this section).

(ii) *30 calendar days.* When we consider past relevant work and work experience (see § 404.1565), 30 calendar days means a period of 30 consecutive days, including weekends, starting from the first day of work. When we consider whether work lasted 30 calendar days, we generally do not consider the total number of hours or days worked during that period, or whether the work was full-time or part-time. The 30 calendar days requirement is separate from the consideration of substantial gainful activity or whether you worked long enough to learn how to do the work, although the work performed during the 30 calendar days may count toward the time needed for you to learn to do the work. The 30 calendar days requirement also applies if you were self-employed or an independent contractor; we will consider whether you were engaged in the same type of work for 30 calendar days, even if individual work assignments or contracts each lasted fewer than 30 calendar days.

* * * * *

■ 3. Revise § 404.1565 to read as follows:

§ 404.1565 Your work experience as a vocational factor.

(a) *General. Work experience* means skills and abilities you have acquired through work you have done which show the type of work you may be expected to do. Work you have already been able to do shows the kind of work that you may be expected to do. We consider that your work experience applies when it was done within the last five years, lasted long enough for you to learn to do it, and was substantial gainful activity. We do not usually consider that work you did more than five years before the time we are deciding whether you are disabled (or when the disability insured status requirement was last met, if earlier) applies. A gradual change occurs in most jobs so that after five years it is no longer realistic to expect that skills and abilities acquired in a job done then continue to apply. If you have no work experience or you did work that started and stopped in a period of fewer than 30 calendar days (see § 404.1560(b)(1)(ii)) during the five-year period, we generally consider that these do not apply. If you have acquired skills through your past work, we consider you to have these work skills unless you cannot use them in other skilled or semi-skilled work that you can now do. If you cannot use your skills in other skilled or semi-skilled work, we will consider your work background the same as unskilled. However, even if you have no work experience, we may consider that you are able to do unskilled work because it requires little or no judgment and can be learned in a short period of time.

(b) *Information about your work.* Under certain circumstances, we will ask you about the work you have done in the past. If you cannot give us all of the information we need, we may try, with your permission, to get it from your employer or other person who knows about your work, such as a member of your family or a co-worker. When we need to consider your work experience to decide whether you are able to do work that is different from what you have done in the past, we will ask you to tell us about all of the jobs you have had in the last five years. You must tell us the dates you worked, all of the duties you did, and any tools, machinery, and equipment you used. We will need to know about the amount of walking, standing, sitting, lifting and carrying you did during the workday, as well as any other physical or mental duties of your job. If all of your work in the past five years has been arduous and unskilled, and you have very little education, we will ask you to tell us about all of your work from the time you first began working. This information could help you to get disability benefits.

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

Subpart I—Determining Disability and Blindness

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

Authority: Secs. 221(m), 702(a)(5), 1611, 1614, 1619, 1631(a), (c), (d)(1), and (p), and 1633 of the Social Security Act (42 U.S.C. 421(m), 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), (d)(1), and (p), 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, and 1382h note).

■ 5. Amend § 416.960 by revising paragraph (b)(1) to read as follows:

§ 416.960 When we will consider your vocational background.

* * * * *

(b) * * *

(1) *Definition of past relevant work*—(i) *What is past relevant work.* Past relevant work is work that you have done within the past five years that was substantial gainful activity and that lasted long enough for you to learn to do it (see § 416.965(a)). We will not consider work to be past relevant work if you started and stopped it in fewer than 30 calendar days (see paragraph (b)(1)(ii) of this section).

(ii) *30 calendar days.* When we consider past relevant work and work experience (see § 416.965), 30 calendar days means a period of 30 consecutive days, including weekends, starting from the first day of work. When we consider whether work lasted 30 calendar days, we generally do not consider the total number of hours or days worked during that period, or whether the work was full-time or part-time. The 30 calendar days requirement is separate from the consideration of substantial gainful activity or whether you worked long enough to learn how to do the work, although the work performed during the 30 calendar days may count toward the time needed for you to learn to do the work. The 30 calendar days requirement also applies if you were self-employed or an independent contractor; we will consider whether you were engaged in the same type of work for 30 calendar days, even if individual work assignments or contracts each lasted fewer than 30 calendar days.

* * * * *

■ 6. Revise § 416.965 to read as follows:

§ 416.965 Your work experience as a vocational factor.

(a) *General. Work experience* means skills and abilities you have acquired through work you have done which

show the type of work you may be expected to do. Work you have already been able to do shows the kind of work that you may be expected to do. We consider that your work experience applies when it was done within the last five years, lasted long enough for you to learn to do it, and was substantial gainful activity. We do not usually consider that work you did more than five years before the time we are deciding whether you are disabled applies. A gradual change occurs in most jobs so that after five years it is no longer realistic to expect that skills and abilities acquired in a job done then continue to apply. If you have no work experience or you did work that started and stopped in a period of fewer than 30 calendar days (see § 416.960(b)(1)(ii)) during the five-year period, we generally consider that these do not apply. If you have acquired skills through your past work, we consider you to have these work skills unless you cannot use them in other skilled or semi-skilled work that you can now do. If you cannot use your skills in other skilled or semi-skilled work, we will consider your work background the same as unskilled. However, even if you have no work experience, we may consider that you are able to do unskilled work because it requires little or no judgment and can be learned in a short period of time.

(b) *Information about your work.* Under certain circumstances, we will ask you about the work you have done in the past. If you cannot give us all of the information we need, we may try, with your permission, to get it from your employer or other person who knows about your work, such as a member of your family or a co-worker. When we need to consider your work experience to decide whether you are able to do work that is different from what you have done in the past, we will ask you to tell us about all of the jobs you have had in the last five years. You must tell us the dates you worked, all of the duties you did, and any tools, machinery, and equipment you used. We will need to know about the amount of walking, standing, sitting, lifting and carrying you did during the workday, as well as any other physical or mental duties of your job. If all of your work in the past five years has been arduous and unskilled, and you have very little education, we will ask you to tell us about all of your work from the time you first began working. This information could help you to get disability benefits.

[FR Doc. 2024–08150 Filed 4–17–24; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 525

Publication of Directive 1 Under Executive Order 14014 of February 10, 2021

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Publication of one directive.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing a Burma Sanctions Directive in the **Federal Register**. The Directive, issued pursuant to a February 10, 2021 Executive Order, was made available on OFAC's website when it was issued.

DATES: Directive 1 under Executive Order 14014, ''Prohibitions Related to Financial Services to or for the Benefit of Myanma Oil and Gas Enterprise,'' was issued on October 31, 2023.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, 202–622–2480; Assistant Director for Regulatory Affairs, 202–622–4855; or Assistant Director for Compliance, 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available on OFAC's website: *www.treas.gov/ofac.*

Background

On February 10, 2021, the President, invoking the authority of, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), issued Executive Order (E.O.) 14014 (86 FR 9429, February 12, 2021).

In E.O. 14014, the President found the situation in and in relation to Burma, and in particular the February 1, 2021, coup, in which the military overthrew the democratically elected civilian government of Burma and unjustly arrested and detained government leaders, politicians, human rights defenders, journalists, and religious leaders, thereby rejecting the will of the people of Burma as expressed in elections held in November 2020 and undermining the country's democratic transition and rule of law, constitutes an unusual and extraordinary threat to the national security and foreign policy of the United States and declared a national emergency to deal with that threat.

Section 1 of E.O. 14014 blocks all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of any foreign person determined by the Secretary of the Treasury, in consultation with the Secretary of State, to, among other things, be a political subdivision, agency, or instrumentality of the Government of Burma.

On October 31, 2023, OFAC issued Directive 1 under E.O. 14014, ''Prohibitions Related to Financial Services to or for the Benefit of Myanma Oil and Gas Enterprise.'' In Directive 1, the Director of OFAC, in consultation with the Department of State, determined that the Myanma Oil and Gas Enterprise (MOGE) is a political subdivision, agency, or instrumentality of the Government of Burma, and that the following activities by a U.S. person are prohibited on or after December 15, 2023, except to the extent provided by law, or unless licensed or otherwise authorized by OFAC: The provision, exportation, or reexportation, directly or indirectly, of financial services to or for the benefit of MOGE or its property or interests in property.

The text of Directive 1 under E.O. 14014 is provided below.

OFFICE OF FOREIGN ASSETS CONTROL

Directive 1 Under Executive Order 14014

Prohibitions Related to Financial Services to or for the Benefit of Myanma Oil and Gas Enterprise

Pursuant to sections 1(a)(iv), 1(b), and 8 of Executive Order 14014, ''Blocking Property With Respect to the Situation in Burma'' (the ''Order''), the Director of the Office of Foreign Assets Control (OFAC) has determined, in consultation with the Department of State that the Myanma Oil and Gas Enterprise (MOGE) is a political subdivision, agency, or instrumentality of the Government of Burma, and that the following activities by a U.S. person are prohibited on or after December 15, 2023 except to the extent provided by law, or unless licensed or otherwise authorized by OFAC:

the provision, exportation, or reexportation, directly or indirectly, of financial services to or for the benefit of MOGE or its property or interests in property.

All other activities with MOGE or involving MOGE's property or interests in property are permitted, provided such activities are not otherwise prohibited by law, the Order, or any other sanctions program implemented by OFAC.

Except to the extent otherwise provided by law or unless licensed or otherwise authorized by OFAC, the following are also prohibited: (a) any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions contained in this Directive; and (b) any conspiracy formed