according to the petitioner, the disposal of greater than Class C waste is the responsibility of the Department of Energy (DOE).

The petitioner believes that a licensee that has ''orphan waste'' should not be required to calculate and fund its disposal when there is no disposal site to accept the waste. As an example, the petitioner notes that DOE has an Americium 241 neutron source recovery program that includes compiling a list of unwanted or abandoned AmBe sources throughout the U.S. and is actively consolidating these sources for the recovery of Am-241. The petitioner believes that by initiating this program, the DOE has effectively recognized its responsibility for their disposal.

Dated at Rockville, Maryland, this 7th day of August, 2000.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 00–20418 Filed 8–10–00; 8:45 am]

BILLING CODE 7590–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 3, 4, 5, 15, 20, 35, 36, 37, 38, 39, 100, 140, 155, 166, 170, and 180

Exemption for Bilateral Transactions; a New Regulatory Framework for Clearing Organizations; Rules Relating to Intermediaries of Commodity Interest Transactions; and a New Regulatory Framework for Multilateral Transaction Execution Facilities, Intermediaries and Clearing Organizations

AGENCY: Commodity Futures Trading Commission.

ACTION: Extension of comment period on proposed rules.

SUMMARY: The Commodity Futures Trading Commission published notices of proposed rulemaking (NPRMs) concerning various aspects of a new regulatory framework on June 22, 2000 (63 FR 38985, 63 FR 39008, 63 FR 39027, and 63 FR 39033). The NPRMs provided that comments should be received on or before August 7, 2000. In response to requests from the Association for Investment Management Research and eight agricultural producer groups, the Commission has determined to extend the comment period until August 21, 2000.

DATES: Comments must be received on or before August 21, 2000.

ADDRESSES: As indicated in the NPRMs, comments should be submitted by the specified date to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. In addition, Comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to *secretary@cftc.gov*. Reference should be made to the subjects specified in the original NPRMs.

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1125 21st Street, NW, Washington, DC 20581. Telephone: (202) 418–5260. E-mail: [PArchitzel@cftc.gov].

Issued in Washington, DC on August 7, 2000 by the Commodity Futures Trading Commission.

Edward W. Colbert,

Deputy Secretary of the Commission.

[FR Doc. 00–20353 Filed 8–10–00; 8:45 am]

BILLING CODE 6351–01–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Regulations No. 4 and 16]

RIN 0960–AF12

Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Substantial Gainful Activity Amounts; ''Services'' for Trial Work Period Purposes—Monthly Amounts; Student Earned Income Exclusion

AGENCY: Social Security Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: We are proposing to automatically adjust each year, based on any increases in the national average wage index, the average monthly earnings guideline we use to determine whether work done by persons with impairments other than blindness is substantial gainful activity; provide that we will ordinarily find that an employee whose average monthly earnings are not greater than the ''primary substantial gainful activity amount'' (currently $700) has not engaged in substantial gainful activity without considering other information beyond the employee's earnings; increase the minimum amount of monthly earnings that we consider shows that a person receiving title II Social Security benefits based on disability is performing or has performed ''services'' during a trial work period, and automatically adjust the amount each year thereafter; increase the maximum monthly and yearly Student Earned Income Exclusion amounts we use in determining Supplemental Security Income Program eligibility and payment amounts, and automatically adjust the monthly and yearly exclusion amounts each year thereafter.

We propose these revised rules as part of our efforts to encourage individuals with disabilities to test their ability to work and keep working. We expect that these changes will provide greater incentives for many beneficiaries to attempt to work or, if already working, to continue to work or increase their work effort.

DATES: In order for us to consider your comments on these specific proposals, we must receive them by October 10, 2000.

ADDRESSES: Submit comments in writing to the Commissioner of Social Security, P.O. Box 17703, Baltimore, MD 21235–7703; send by fax to (410) 966–2830; send by E-mail to ''*regulations@ssa.gov*''; or deliver to the Office of Process and Innovation Management, Social Security Administration, L2109 West Low Rise, 6401 Security Boulevard, Baltimore, MD 21235–6401, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by arranging with the contact person shown below. Electronic Version: The electronic file of this document is available on the date of publication in the **Federal Register** on the Internet site for the Government Printing Office at: *http://www.access.gpo.gov/sudocs/aces/aces140.html.* It is also available at SSAOnline at *www.ssa.gov.*

FOR FURTHER INFORMATION CONTACT: For information specifically about these proposed rules, contact Ray Marzoli, Office of Employment Support Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 965–9826 or TTY (410) 966–6210. For information about 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 web site at SSAOnline at *www.ssa.gov.*

SUPPLEMENTARY INFORMATION:

Clarity of This Regulation

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all your substantive comments on this proposed rule, we invite your comments

on how to make this proposed rule easier to understand. For example:
—Have we organized the material to suite your needs?
—Are the requirements in the rule clearly stated?
—Does the rule contain technical language or jargon that isn't clear?
—Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
—Would more (but shorter) sections be better?
—Could we improve clarity by adding tables, lists, or diagrams?
—What else could we do to make the rule easier to understand?

Background

The Social Security and the Supplemental Security Income programs (titles II and XVI of the Social Security Act (the Act)) provide benefits to disabled and blind individuals. Disability is generally defined under both programs as, ''* * * inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment * * *.'' The Medicare and Medicaid programs (titles XVIII and XIX of the Act) provide related medical benefits to disabled and blind individuals.

The Substantial Gainful Activity Amount

Under 20 CFR §§ 404.1572 and 416.972, the term ''substantial gainful activity'' means work activity that involves significant physical or mental effort and that is done for pay or profit. Work activity is gainful if it is the kind of work usually performed for pay or profit, whether or not profit is realized. Sections 223(d)(4)(A) and 1614(a)(3)(E) of the Social Security Act require the Commissioner to prescribe by regulations the criteria for determining when earnings demonstrate ability to engage in substantial gainful activity for a person with an impairment other than blindness.

In evaluating initial claims for disability, we make a determination whether the applicant for either Social Security benefits or Supplemental Security Income benefits is engaging in substantial gainful activity. We find applicants not to be disabled if they are working and performing substantial gainful activity, regardless of their medical condition. In addition, after an individual becomes entitled to title II Social Security benefits based on disability, we consider whether a person's earnings demonstrate the ability to engage in substantial gainful activity in determining ongoing entitlement to disability benefits. (We do not use substantial gainful activity as a measure for continuing eligibility for Supplemental Security Income benefits.) Under our current rules, if an individual's average monthly earnings were more than $700, we would ordinarily consider that the person engaged in substantial gainful activity. This earnings guideline level applies to all employees including those in sheltered workshops or comparable facilities and, in certain circumstances, to the self-employed.

We are proposing to provide for annual indexing of this level after reassessing the current earnings guidelines as part of our effort to improve incentives to encourage individuals with disabilities to work. We propose to adjust annually the substantial gainful activity amount for people with impairments other than blindness. Beginning January 1, 2001, the guideline would be the larger of the previous year's amount or an increased amount based on the Social Security national average wage index (See section 209(k)(1) of the Act).

Finally, because the Social Security Administration is committed to maintaining the substantial gainful activity amount as an indicator of an individual's ability to work, we will periodically review this level to determine if it continues to be a reasonable and meaningful indicator. These reviews will include collection and analysis of data, such as the number of beneficiaries (1) who earn wages, (2) with wages that exceed the trial work period services level, and (3) with wages that exceed the substantial gainful activity level; the duration of employment above the substantial gainful amount; and the average earnings of individuals achieving substantial gainful activity.

We use earnings guidelines to evaluate a person's work activity to determine whether the work activity is substantial gainful activity and therefore whether that person may be considered disabled under the law. A consistent method of adjusting substantial gainful activity earnings guidelines will benefit applicants and beneficiaries in future years. The national average wage index is a measure of wage growth and, therefore, provides a logical basis for adjusting the earnings guidelines used to indicate ability to work. Indexing would ensure that the substantial gainful activity amount is a uniformly representative indicator over time of an individual's ability to work.

Under this proposal, the substantial gainful activity amount would never be lower than the previous year's amount. However, there may be years when no increase results from the calculation. For a detailed discussion of how we calculate annual automatic adjustments, see our notice regarding cost-of-living increases and other determinations for the year 2000 that was published in the **Federal Register** for October 25, 1999 (64 FR 57507). Every October, we publish in the **Federal Register** an updated version of this notice that includes new adjustments.

We also propose to amend §§ 404.1574(b)(2) and (4) and 416.974(b)(2) and (4) to clarify, consistent with our longstanding policy, that ordinarily we will find any individual, whether engaged in competitive or sheltered work, to be engaging in substantial gainful activity when his or her earnings exceed the amounts for such earnings set out in §§ 404.1574(b)(2) and 416.974(b)(2). As a result of these clarifications, we intend to rescind the *Iamarino* v. *Heckler* Acquiescence Ruling, AR 87–4(8), when these proposed rules are published as final rules.

The ''Secondary Substantial Gainful Activity Amount''

Under our current rules, if an employee has earnings from work activities that average less than $300 a month, we generally consider that he or she is *not* engaging in substantial gainful activity. We refer to this $300 earnings guideline as the ''secondary substantial gainful activity amount'' to distinguish it from the ''primary substantial gainful activity amount'' discussed in the previous section.

We do not further evaluate work activity below the secondary substantial gainful activity amount unless there is evidence to the contrary showing that the person may be engaging in substantial gainful activity (e.g., an employee might be in a position to defer or suppress earnings). We examine further the work activity of employees who earned between the primary and secondary substantial gainful activity levels because our current rules provide that these earnings are not high or low enough to determine if substantial gainful activity exists. We are required to determine whether the work is substantial gainful activity by developing additional evidence. (A different rule currently applies to individuals employed in sheltered workshops or comparable facilities. For these people, earnings that are not greater than the *primary* substantial gainful activity amount ordinarily establish that their work is not substantial gainful activity.)

Because our experience suggests that the secondary substantial gainful activity amount is not as useful a tool as we would have liked, we propose to discontinue its use. Under this proposal, we would ordinarily consider that an employee whose earnings are equal to or less than the primary substantial gainful activity amount is not engaging in substantial gainful activity. We would perform additional development beyond looking at earnings only when circumstances indicate that such an employee may be engaging in substantial gainful activity or might be in a position to defer or suppress earnings. This regulatory change would not change our evaluation guidelines for the self-employed.

Our experience suggests that this regulatory change would affect few applicants and beneficiaries because few employees have been found to have performed substantial gainful activity on the basis of these secondary rules unless they were also in a position to defer or suppress earnings. We are making this proposal in order to simplify our rules and to improve our work efficiency. This proposed change would also eliminate the need for us to distinguish for earnings guidelines purposes between those employees who are in sheltered workshops or comparable facilities and those who are not. To discontinue these complex secondary guidelines, as proposed, would contribute toward improved public understanding of Social Security.

Services for the Trial Work Period

The trial work period is a work incentive. During the trial work period, a title II beneficiary may test his or her ability to work and still be considered disabled. We will not consider services performed during the trial work period as showing that the disability has ended until services have been performed in at least 9 months (not necessarily consecutive) in a rolling 60-month period.

Section 222(c)(2) of the Act provides that, for purposes of the trial work period, ''the term 'services' means activity (whether legal or illegal) which is performed for remuneration or gain or is determined by the Commissioner of Social Security to be of a type normally performed for remuneration or gain.'' As established in regulations, § 404.1592(b), we currently consider any month in which an employee earns more than $200 from his or her work to be a month of services for the trial work period.

We are proposing to revise this level as part of our effort to improve incentives to encourage individuals with disabilities to work. We propose to increase the monthly amount of earnings we consider to be ''services'' in a trial work period from $200 to $530 for the year 2001. We also propose, for each year thereafter, to adjust the amount to the higher of the previous year's amount or an increased amount based on the Social Security national average wage index.

Although the dollar amount which ordinarily represents substantial gainful activity has increased since 1990, the $200 amount that represents a month of trial work period services has remained the same since 1990. Beneficiaries are currently faced with exhausting months of a trial work period while earning as little as $200 a month, even on an intermittent basis. As a result, when beneficiaries are finally able to reach a higher earnings level, they may have already used up many or all of their 9 months of trial work. Increasing the trial work period services amount to $530 would allow more beneficiaries with disabilities to more realistically test their ability to work and would likely lead to work at levels closer to or at substantial gainful activity.

Automatic indexing would ensure that the trial work period services amount is a uniformly representative indicator over time of a trial work attempt. We would calculate the adjustments in essentially the same manner as we are proposing for increasing the substantial gainful activity amount. Under this proposal, the trial work period amount would never be lower than the previous year's amount. However, there may be years when no increase results from the calculation. For a detailed discussion of how we calculate annual automatic adjustments, see the **Federal Register** for October 25, 1999, cited above. Every October, we publish in the **Federal Register** an updated version of this notice that includes new adjustments.

The legislative history of the trial work period provision indicates that Congress recognized and intended that the amount that constitutes trial work need not constitute substantial gainful activity. Congress enacted the trial work period as part of the Social Security Amendments of 1960. The accompanying House Ways and Means Committee report states, ''Your committee intends that any months in which a disabled person works for gain, or does work of a nature generally performed for gain, be counted as a month of trial work. Thus the services rendered in a month need not constitute substantial gainful activity in order for the month to be counted as part of the trial-work effort.'' H.R. Rep. No. 86–1799, at 13 (1960). This proposal would maintain the distinction between the trial work period services amount and the substantial gainful activity amount intended by Congress while providing disabled beneficiaries with greater incentives to test their ability to work.

The Student Earned Income Exclusion

Section 1612 of the Social Security Act establishes the definition of ''*income*'' for purposes of the Supplemental Security Income program. This section also states what is excluded from income. Section 1612(b)(1) provides an exclusion from earned income, subject to the limitations (as to amount or otherwise) prescribed by the Commissioner, for a child who is a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him or her for gainful employment. With this section, Congress recognized that students with disabilities incur special expenses to go to school. Under the current regulations, § 416.1112(c)(3), Supplemental Security Income child beneficiaries who are students can currently exclude up to $400 a month of earned income with an annual limit of $1,620. By being excluded, this earned income has no effect on eligibility or benefits under the Supplemental Security Income program. These amounts have been in place since 1974 when the Supplemental Security Income program began.

In response to increases in school expenses since that time, we are proposing to revise these levels as part of our effort to help Supplemental Security Income beneficiaries who are students finance their school attendance and encourage them to work. We propose to increase the earned income exclusion amount, beginning January 1, 2001, to $1,290 a month with an annual limit of $5,200. We are also proposing to make automatic adjustments to these amounts each year thereafter to the higher of the previous year's amounts or increased amounts based on the cost-of-living.

The cost-of-living adjustments would ensure that the amounts account for price inflation. We are proposing to use a similar method to that currently used to calculate annual cost-of-living adjustments in the Supplemental Security Income program Federal benefit rates. The only differences are that this calculation would use the calendar year 2001 amounts as the base amounts and any increases in these amounts would be rounded to the nearest $10. Under this proposal, these amounts would never be lower than the previous year's amounts. However,

there may be years when no increases result from the calculation. For a detailed discussion of how we calculate annual automatic adjustments, see the **Federal Register** for October 25, 1999, cited above. Every October, we publish in the **Federal Register** an updated version of this notice that includes new adjustments.

Proposed Regulations

We propose to revise §§ 404.1574(b)(2) and (4), and 416.974(b)(2) and (4) to adjust annually the earnings guidelines that we use to determine whether a non-blind employee is engaged in substantial gainful activity. Beginning January 2001, the guideline would be the higher of the previous year's amount or an increased amount based on the Social Security national average wage index. We also propose to amend §§ 404.1574(b)(2) and (4) and 416.974(b)(2) and (4) to clarify, consistent with our longstanding policy, that this guideline applies to earnings from sheltered work. (This standard also applies to the self-employed in certain circumstances by cross-references that have been and continue to be present in §§ 404.1575 and 416.975.)

We also propose to revise §§ 404.1574(b)(3) and (6), and 416.974(b)(3) and (6) to provide, beginning January 2001, that we will ordinarily find that an employee whose average monthly earnings are equal to or less than the ''primary substantial gainful activity amount'' set forth in §§ 404.1574(b)(2) and 416.974(b)(2) has not engaged in substantial gainful activity without considering other information beyond the employee's earnings. We also propose to make conforming changes to §§ 404.1574(b)(4) and 416.974(b)(4).

We also propose to revise § 404.1592 to increase from $200 to $530 the minimum amount of monthly earnings that we consider shows that a person is performing or has performed ''services'' for counting trial work period months, effective January 1, 2001. We also propose to adjust the amount annually to the higher of the previous year's amount or an increased amount based on the Social Security national average wage index, beginning January 1, 2002.

We also propose to revise § 416.1112(c)(3) to increase the maximum amount of the student earned income exclusion to $1,290 a month, not to exceed $5,200 per year, effective January 2001. We also propose to adjust these amounts annually to the higher of the previous year's amounts or increased amounts calculated in essentially the same manner as the annual cost-of-living adjustments to the Supplemental Security Income Program federal benefit rates, beginning January 1, 2002. This calculation would use the 2001 amounts as the base amounts and any increases in these amounts would be rounded to the nearest $10.

Regulatory Procedures

Paperwork Reduction Act

These regulations impose no new reporting/record-keeping requirements necessitating clearance by OMB.

Executive Order 12866

Based on the costs associated with these proposed rules, the Social Security Administration has determined that they do not require an assessment of costs and benefits to society per Executive Order 12866 because they do not meet the definition of a ''significant regulatory action.'' These proposed rules also do not meet the definition of a ''major rule'' under 5 U.S.C. 801ff because the Social Security Administration's budget baseline assumes that substantial gainful activity amounts will keep pace with growth in average wages, and other provisions do not result in costs that exceed the threshold for what constitutes a ''major rule''. In addition, the Social Security Administration has determined, as required under the aforementioned statute, that these regulations do not create any unfunded mandates for State or local entities under sections 202–205 of the Unfunded Mandates Act of 1995. The Office of Management and Budget has reviewed these proposed rules.

We have also determined that these proposed rules meet the plain language requirement of Executive Order 12866 and the President's memorandum of June 1, 1998. However, as noted earlier, we invite your comments on how to make these rules easier to understand.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect individuals who are applying for or receiving title II or title XVI benefits because of blindness or disability, and States which administer the Medicaid program and/or pay supplemental benefits to Supplemental Security Income eligible individuals.

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

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and record keeping requirements, Social Security.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and record keeping requirements, Supplemental Security Income.

Dated: June 27, 2000.

Kenneth S. Apfel,

Commissioner of Social Security.

For the reasons stated in the preamble, the Social Security Administration proposes to amend parts 404 and 416 of chapter III of title 20 of the Code of Federal Regulations as follows:

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

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

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

2. Section 404.1574 is amended by revising paragraphs (b)(2), (b)(3), (b)(4), and (b)(6) to read as follows:

§ 404.1574 Evaluation guides if you are an employee.

* * * * *

(b) * * *

(2) *Earnings that will ordinarily show that you have engaged in substantial gainful activity.* We will consider that your earnings from your work activity as an employee (including earnings from sheltered work, see paragraph (b)(4) of this section) show that you engaged in substantial gainful activity if:

(i) *Before January 1, 2001,* they averaged more than the amount(s) in Table 1 of this section for the time(s) in which you worked.

(ii) *Beginning January 1, 2001,* they are more than an amount determined for each calendar year to be the larger of:

(A) The amount for the previous year, or

(B) An amount adjusted for national wage growth, calculated by multiplying $700 by the ratio of the national average wage index for the year 2 calendar years

before the year for which the amount is being calculated to the national average wage index for 1998. We will then round the resulting amount to the next higher multiple of $10 where such amount is a multiple of $5 but not of $10 and to the nearest multiple of $10 in any other case.

TABLE 1

For months:	Your monthly earnings averaged more than:
In calendar years before 1976	$200
In calendar year 1976	230
In calendar year 1977	240
In calendar year 1978	260
In calendar year 1979	280
In calendar years 1980–1989	300
January 1990–June 1999	500
July 1999–December 2000	700

(3) *Earnings that will ordinarily show that you have not engaged in substantial gainful activity.* Beginning January 1, 2001, if your earnings are equal to or less than the amount(s) determined under paragraph (b)(2)(ii) of this section for the year(s) in which you work, we will generally consider that the earnings from your work as an employee will show that you have not engaged in substantial gainful activity. Before January 1, 2001, if your earnings were less than the amount(s) in Table 2 of this section for the year(s) in which you worked, we will generally consider that the earnings from your work as an employee will show that you have not engaged in substantial gainful activity.

TABLE 2

For months:	Your monthly earnings averaged less than:
In calendar years before 1976	$130
In calendar year 1976	150
In calendar year 1977	160
In calendar year 1978	170
In calendar year 1979	180
In calendar years 1980–1989	190
In calendar years 1990–2000	300

(4) *Before January 1, 2001, if you worked in a sheltered workshop.* Before January 1, 2001, if you worked in a sheltered workshop or a comparable facility especially set up for severely impaired persons, we will ordinarily consider that your earnings from this work show that you have engaged in substantial gainful activity if your earnings averaged more than the amounts in Table 1 of this section. Average monthly earnings from a sheltered workshop or a comparable facility that are equal to or less than those amounts indicated in paragraph (b)(2) of this section will ordinarily show that you have not engaged in substantial gainful activity without the need to consider other information, as described in paragraph (b)(6) of this section, regardless of whether they are more or less than those indicated in paragraph (b)(3) of this section. When your earnings from a sheltered workshop or comparable facility are equal to or less than those amounts indicated in paragraph (b)(2), we will consider the provisions of paragraph (b)(6) of this section only if there is evidence showing that you may have engaged in substantial gainful activity.

* * * * *

(6) *Earnings that are not high enough to ordinarily show that you engaged in substantial gainful activity.*

(i) *Before January 1, 2001*, if your average monthly earnings were between the amounts shown in paragraphs (b)(2) and (3) of this section, we will generally consider other information in addition to your earnings (see paragraph (b)(6)(iii) of this section). This rule generally applies to employees who did not work in a sheltered workshop or a comparable facility, although we may apply it to some people who work in sheltered workshops or comparable facilities (see paragraph (b)(4) of this section).

(ii) *Beginning January 1, 2001*, if your average monthly earnings are equal to or less than the amounts determined under paragraph (b)(2) of this section, we will generally not consider other information in addition to your earnings unless there is evidence indicating that you may be engaging in substantial gainful activity or that you are in a position to defer or suppress your earnings.

(iii) Examples of other information we may consider include, whether—

(A) Your work is comparable to that of unimpaired people in your community who are doing the same or similar occupations as their means of livelihood, taking into account the time, energy, skill, and responsibility involved in the work, and

(B) Your work, although significantly less than that done by unimpaired people, is clearly worth the amounts shown in paragraph (b)(2) of this section, according to pay scales in your community.

* * * * *

3. Section 404.1592 is amended by revising paragraph (b) to read as follows:

§ 404.1592 The trial work period.

* * * * *

(b) *What we mean by services.* When used in this section, *services* means any activity, even though it is not substantial gainful activity, which is done in employment or self-employment for pay or profit, or is the

kind normally done for pay or profit. We generally do not consider work to be *services* when it is done without remuneration or merely as therapy or training, or when it is work usually done in a daily routine around the house, or in self-care.

(1) *If you are an employee.* We will consider your work as an employee to be *services* if:

(i) *Before January 1, 2002*, your earnings in a month were more than the amount(s) indicated in Table 1 of this section for the year(s) in which you worked.

(ii) *Beginning January 1, 2002*, your earnings in a month are more than an amount determined for each calendar year to be the larger of:

(A) Such amount for the previous year, or

(B) An amount adjusted for national wage growth, calculated by multiplying $530 by the ratio of the national average wage index for the year 2 calendar years before the year for which the amount is being calculated to the national average wage index for 1999. We will then round the resulting amount to the next higher multiple of $10 where such amount is a multiple of $5 but not of $10 and to the nearest multiple of $10 in any other case.

(2) *If you are self-employed.* We will consider your activities as a self-employed person to be services if:

(i) *Before January 1, 2002*, your net earnings in a month were more than the amount(s) indicated in Table 2 of this section for the year(s) in which you worked, or the hours you worked in the business in a month are more than the number of hours per month indicated in Table 2 for the years in which you worked.

(ii) *Beginning January 1, 2002*, you work more than 40 hours a month in the business, or your net earnings in a month are more than an amount determined for each calendar year to be the larger of:

(A) Such amount for the previous year, or

(B) An amount adjusted for national wage growth, calculated by multiplying $530 by the ratio of the national average wage index for the year 2 calendar years before the year for which the amount is being calculated to the national average wage index for 1999. We will then round the resulting amount to the next higher multiple of $10 where such amount is a multiple of $5 but not of $10 and to the nearest multiple of $10 in any other case.

TABLE 1.—FOR EMPLOYEES

For months	You earn more than
In calendar years before 1979	$50
In calendar years 1979–1989	$75
In calendar years 1990–2000	$200
In calendar year 2001	$530

TABLE 2.—FOR THE SELF-EMPLOYED

For months	Your net earnings are more than	Or you work in the business more than (hours)
In calendar years before 1979	$50	15
In calendar years 1979–1989	75	15
In calendar years 1990–2000	200	40
In calendar year 2001	530	40

* * * * *

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

1. The authority citation for Subpart I of Part 416 continues to read as follows:

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

2. Section 416.974 is amended by revising paragraphs (b)(2), (b)(3), (b)(4) and (b)(6) to read as follows:

§ 416.974 Evaluation guides if you are an employee.

* * * * *

(b) * * *

(2) *Earnings that will ordinarily show that you have engaged in substantial gainful activity.* We will consider that your earnings from your work activity as an employee (including earnings from sheltered work, see paragraph (b)(4) of this section) show that you engaged in substantial gainful activity if:

(i) *Before January 1, 2001*, they averaged more than the amount(s) in Table 1 for the time(s) in which you worked.

(ii) *Beginning January 1, 2001*, they are more than an amount determined for each calendar year to be the larger of:

(A) The amount for the previous year, or

(B) An amount adjusted for national wage growth, calculated by multiplying $700 by the ratio of the national average wage index for the year 2 calendar years before the year for which the amount is being calculated to the national average wage index for 1998. We will then round the resulting amount to the next higher multiple of $10 where such amount is a multiple of $5 but not of $10 and to the nearest multiple of $10 in any other case.

TABLE 1

For months:	Your monthly earnings averaged more than:
In calendar years before 1976	$200
In calendar year 1976	230
In calendar year 1977	240
In calendar year 1978	260
In calendar year 1979	280
In calendar years 1980–1989	300
January 1990–June 1999	500
July 1999–December 2000	700

(3) *Earnings that will ordinarily show that you have not engaged in substantial gainful activity.* Beginning January 1, 2001, if your earnings are equal to or less than the amount(s) determined under paragraph (b)(2)(ii) of this section for the year(s) in which you work, we will generally consider that the earnings from your work as an employee will show that you have not engaged in substantial gainful activity. Before January 1, 2001, if your earnings were less than the amount(s) in Table 2 of this section for the year(s) in which you worked, we will generally consider that the earnings from your work as an employee will show that you have not engaged in substantial gainful activity.

TABLE 2

For months:	Your monthly earnings averaged less than:
In calendar years before 1976	$130
In calendar year 1976	150
In calendar year 1977	160
In calendar year 1978	170
In calendar year 1979	180
In calendar years 1980–1989	190
In calendar years 1990–2000	300

(4) *Before January 1, 2001, if you worked in a sheltered workshop.* Before January 1, 2001, if you worked in a sheltered workshop or a comparable facility especially set up for severely impaired persons, we will ordinarily consider that your earnings from this work show that you have engaged in substantial gainful activity if your earnings averaged more than the amounts in the table in paragraph (b)(2) of this section. Average monthly earnings from a sheltered workshop or a comparable facility that are equal to or less than those amounts indicated in paragraph (b)(2) of this section will ordinarily show that you have not engaged in substantial gainful activity without the need to consider other information, as described in paragraph (b)(6) of this section, regardless of whether they are more or less than those indicated in paragraph (b)(3) of this section. When your earnings from a sheltered workshop or comparable facility are equal to or less than those amounts indicated in paragraph (b)(2), we will consider the provisions of paragraph (b)(6) of this section only if there is evidence showing that you may have engaged in substantial gainful activity.

* * * * *

(6) *Earnings that are not high enough to ordinarily show that you engaged in substantial gainful activity.*

(i) *Before January 1, 2001,* if your average monthly earnings were between the amounts shown in paragraphs (b)(2) and (3) of this section, we will generally consider other information in addition to your earnings (see paragraph (b)(6)(iii) of this section). This rule generally applies to employees who did not work in a sheltered workshop or a comparable facility, although we may apply it to some people who work in sheltered workshops or comparable facilities (see paragraph (b)(4) of this section).

(ii) *Beginning January 1, 2001,* if your average monthly earnings are equal to or less than the amounts determined under paragraph (b)(2) of this section, we will generally not consider other information in addition to your earnings unless there is evidence indicating that you may be engaging in substantial gainful activity or that you are in a position to defer or suppress your earnings.

(iii) Examples of other information we may consider include, whether—

(A) Your work is comparable to that of unimpaired people in your community who are doing the same or similar occupations as their means of livelihood, taking into account the time, energy, skill, and responsibility involved in the work, and

(B) Your work, although significantly less than that done by unimpaired people, is clearly worth the amounts shown in paragraph (b)(2) of this section, according to pay scales in your community.

* * * * *

3. The authority citation for Subpart K of Part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383); sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

4. Section 416.1112 is amended by revising paragraph (c)(3) to read as follows:

§ 416.1112 Earned income we do not count.

* * * * *

(c) * * *

(3) If you are a blind or disabled child who is a student regularly attending school as described in § 416.1861:

(i) *Beginning January 1, 2002,* monthly and yearly maximum amounts that are the larger of:

(A) The monthly and yearly amounts for the previous year, or

(B) Monthly and yearly maximum amounts increased for changes in the cost-of-living calculated in the same manner as the Federal benefit rates described in § 416.405, except that we will use the calendar year 2001 amounts as the base amounts and will round the resulting amount to the next higher multiple of $10 where such amount is a multiple of $5 but not of $10 and to the nearest multiple of $10 in any other case.

(ii) *Before January 1, 2002,* the amounts indicated in Table 1 of this section.

TABLE 1

For months	Up to per month	But not more than in a calendar year
In calendar years before 2001	$400	$1,620
In calendar year 2001	1,290	5,200

* * * * *

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 72

30 CFR Parts 70, 75 and 90

RIN 1219–AB18; RIN 1219–AB14

Determination of Concentration of Respirable Coal Mine Dust; Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust

AGENCIES: Mine Safety and Health Administration (MSHA), Labor. National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, Department of Health and Human Services.

ACTION: Proposed rules; extension of comment periods; close of records.

SUMMARY: The Mine Safety and Health Administration (MSHA) is announcing two-week extensions of the comment periods on two notices of proposed rulemakings which were both published in the **Federal Register** on July 7, 2000.

One proposal, ''Determination of Concentration of Respirable Coal Mine Dust'' announced that the Secretary of Labor and the Secretary of Health and Human Services that the average concentration of respirable dust to which each miner in the active workings of a coal mine is exposed can be accurately measured over a single shift. The Secretaries are proposing to rescind a previous 1972 finding by the Secretary of the Interior and the Secretary of Health, Education and Welfare, on the accuracy of single-shift sampling.

The other proposal, ''Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust'' announced that MSHA would revoke existing operator respirable dust sampling procedures under parts 70 and 90, and would implement new regulations, under part 72, that would require each underground coal mine operator to have a verified mine ventilation plan.

These rulemaking records will remain open until September 8, 2000.

DATES: Comments must be received on or before September 8, 2000.

ADDRESSES: You may use mail, facsimile (fax), or electronic mail to send us your comments. Clearly identify your comments and send them—(1) By mail to Carol J. Jones, Director, Office of Standards, Regulations, and Variances, MSHA, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203; (2) By fax to MSHA, Office of Standards, Regulations, and Variances, 703–235–5551; or (3) By electronic mail to comments@msha.gov.

FOR FURTHER INFORMATION CONTACT: Carol J. Jones, Director; Office of Standards, Regulations, and Variances, MSHA, 4015 Wilson Boulevard, Arlington, VA 22203–1984; 703–235–1910.

SUPPLEMENTARY INFORMATION:

(1) Determination of Concentration of Respirable Coal Mine Dust

On July 7, 2000, (65 FR 42068), the Secretary of Labor and the Secretary of Health and Human Services (the Secretaries) jointly published a notice of proposed rulemaking finding in accordance with sections 101 (30 U.S.C. 811) and 202(f)(2) (30 U.S.C. 842(f)(2)) of the Federal Mine Safety and Health Act of 1977 (Mine Act) that the average concentration of respirable dust to which each miner in the active workings of a coal mine is exposed can be accurately measured over a single shift. The Secretaries are proposing to rescind a 1972 finding by the Secretary of the Interior and the Secretary of Health, Education, and Welfare, on the accuracy of such single-shift sampling.

(2) Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust

On July 7, 2000, (65 FR 42122), we published a proposed rule which would revoke existing operator respirable dust sampling procedures under 30 CFR parts 70 and 90. The proposal would implement new regulations under which MSHA would verify the effectiveness of a mine operator's dust control parameters for mechanized mining units (MMUs) specified in the mine ventilation plan before these plans are approved. Verification sampling would be conducted under more typical production levels and for the actual length of the production shift.

(3) Public Hearings

We encourage the mining community to participate in the public hearings on the proposed rules. The hearings will be held as follows:

1. August 7 from 8:30 a.m. to 5:00 p.m.; August 8 from 8:30 a.m. to 12:00 p.m. if necessary; Holiday Inn, 1400 Saratoga Avenue, Morgantown, West Virginia 26505, 304–599–1680
2. August 10 from 8:30 a.m. to 5:00 p.m.; August 11 from 8:30 a.m. to 12:00 p.m. if necessary; Holiday Inn, 1887 North US 23, Prestonsburg, Kentucky 41653, 606–886–0001
3. August 16 from 8:30 a.m. to 5:00 p.m.; August 17 from 8:30 a.m. to 12:00 p.m. if necessary; Hilton Salt Lake City Center, 255 South West Temple, Salt Lake City, Utah 84101, 801–328–2000