responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive:

Turbomeca: Docket No. FAA–2005–22364; Directorate Identifier 2005–NE–26–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by January 3, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Turbomeca Arriel 1B, 1D and 1D1 certain turboshaft engines, modified to TU 202. These engines are installed on, but not limited to, Eurocopter France AS350A, AS350B, AS350B1, and AS350B2 helicopters.

Unsafe Condition

(d) This AD results from one instance of a fractured 2nd stage turbine blade followed by an uncommanded engine shutdown. We are issuing this AD to detect and prevent perforation of the NGV2 that could cause fracture of a turbine blade that could result in an uncommanded engine in-flight shutdown.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified unless the actions have already been done.

Inspect 2nd Stage Nozzle Guide Vanes (NGV2)

(f) At the next shop visit or the next accessibility of the NGV2 after the effective date of this AD, whichever occurs first, check the thickness of the material on each NGV2 using the Instructions to be Incorporated of Turbomeca Mandatory Service Bulletin (MSB) No. 292 72 0231, Update No. 5, dated July 22, 2004. Replace the NGV2 if the vane thickness is below the defined criteria.

(g) Inspections carried out before the effective date of this AD, using an earlier update of MSB No. 292 72 0231, are acceptable alternatives to the requirements of this AD.

(h) Information regarding NGV2's that have already had the actions required by this AD done and are exempt from the inspections using paragraph (e) of this AD can be found in MSB No. 292 72 0231, Update No. 5, dated July 22, 2004.

Definitions

(i) For the purposes of this AD the following definitions apply:

(1) A shop visit is defined as introduction of the engine into a shop for the purposes of deep maintenance and the separation of a major mating flange.

(2) Accessibility of the NGV2 is defined as removal of the NGV2 from the engine regardless of the location or reason for removal.

Alternative Methods of Compliance (AMOCs)

(j) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Related Information

(k) DGAC airworthiness directive No. F–20040–088 R1 also addresses the subject of this AD.

Issued in Burlington, Massachusetts, on October 31, 2005.

Francis A. Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 05–22007 Filed 11–3–05; 8:45 am]

BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

RIN 0960–AG29

Age as a Factor in Evaluating Disability

AGENCY: Social Security Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: We are proposing to revise the definitions of the age categories we use as one of the criteria in determining disability under titles II and XVI of the Social Security Act (the Act). The proposed changes reflect our adjudicative experience, advances in medical treatment and healthcare, changes in the workforce since we originally published our rules for considering age in 1978, and current and future increases in the full retirement age under Social Security law. The proposed changes would not affect the rules under part 404 of our regulations for individuals age 55 or older who have statutory blindness. They also would not affect our other rules that are dependent on age, such as the age at which you can qualify for early retirement benefits or for Medicare as a retired individual.

DATES: To be sure that your comments are considered, we must receive them no later than January 3, 2006.

ADDRESSES: You may give us your comments by: using our Internet site facility (i.e., Social Security Online) at *http://policy.ssa.gov/erm/rules.nsf/Rules+Open+To+Comment* or the Federal eRulemaking Portal at *http://www.regulations.gov;* e-mail to *regulations@ssa.gov;* telefax to (410) 966–2830, or letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, MD 21235–7703. You may also deliver them to the Office of Regulations, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, between 8 a.m. and 4:30 p.m. on regular business days. Comments are posted on our Internet site, or you may inspect them on regular business days by making arrangements with the contact person shown in this preamble.

Electronic Version: The electronic file of this document is available on the date of publication in the **Federal Register** at *http://www.gpoaccess.gov/fr/index.html.*

FOR FURTHER INFORMATION CONTACT: Robert Augustine, Social Insurance Specialist, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401. Call (410) 965–0020 or TTY 1–800–325–0778 for information about these proposed rules. For information on eligibility or filing for benefits, call our national toll-free number 1–(800) 772–1213 or TTY 1–(800) 325–0778. You may also contact Social Security Online at *http://www.socialsecurity.gov/.*

SUPPLEMENTARY INFORMATION:

Why Are We Proposing To Revise the Definitions of the Age Categories We Use To Determine Disability?

In 1978, we established age categories for evaluating disability. Although we indicated at that time that creating the age categories was a ''pioneering effort'' on our part, we have not revisited our standards for effectiveness or accounted for changes in public health in over 25 years.

In response to significant changes in public health conditions, we have conducted an analysis of recent studies to determine what changes, if any, should be made to the current standards. We believe that it is now appropriate to redraw the lines established in 1978. Based on advances in medical treatment and healthcare, significant changes in the workforce, our adjudicative experience, and current and future increases in the full retirement age under Social Security law, we propose to revise our age categories by two years. This minimal increase is a reasonable adjustment to reflect public health factors which have had significant positive effects on the health of older workers and their ability to do other work.

Advances in medical treatment and healthcare have provided longer life expectancies and more healthy years for millions of Americans. In 1978, when we last published our rules, estimated life expectancy at birth was 73.5 years.[1] A child born today is expected to live to at least 77 years of age.[2] It is projected that life expectancy will continue to increase so that a child born in 2010 could be expected to live to be over 78 years of age.[3]

Not only are Americans living longer, but there is clear and overwhelming evidence that the average health of the elderly population is improving. As in 1978, there is no conclusive data that relate specific chronological ages to specific vocational limitations for performing and adapting to new jobs. However, researchers agree that chronic disability is a sensitive measure of age-related changes in the health and biological fitness of individuals.[4]

Recent studies have concluded that adults over age 65 are reporting continuing and significant improvements in their ability to perform activities of daily living, instrumental activities of daily living, and functional limitations. These three measurements are considered effective measures of old-age disability by researchers.[5] Three major surveys conducted within the last decade estimate that the average annual decline in disability among those over age 50 ranged from −1.55% to −0.92% per year during the 1990s.[6] In their seminal work titled *Changes in the Prevalence of Chronic Disability in the United States Black and non-Black Population Above Age 65 from 1982 to 1999,* Kenneth G. Manton and XiLang Gu concluded that percentage declines in disability increased in each five-year period between 1982 and 1999.[7] Additional studies, such as *Health, United States, 2003 Special Excerpt: Trend Tables on 65 and Older Population* published by the U.S. Department of Health and Human Services and *Older Americans 2004: Key Indicators of Well-Being* produced by the Federal Interagency Forum on Aging Related Statistics, report similar increases in reported functioning and overall health of those age 65 and over.[8]

Among adults over age 50, significant and consistent improvements have been reported with respect to functional limitations—defined as difficulty seeing words and letters in ordinary newspaper print, lifting and carrying 10 lbs, climbing a flight of stairs, and walking a quarter of a mile.[9] The results of a 1998 study conducted by Vicki A. Freedman and Linda G. Martin concluded that ''the older population today is significantly different from that of just a decade ago.'' [10] Functional limitations among those aged 50–64 improved by an average of 2.325% between 1984 and 1993, when adjusted for a variety of social factors, and 2.975% unadjusted.[11]

This increase in healthy, active years has already translated into a shift among older adults who are working past 65. It has been projected that labor force participation for workers age 55–64 will increase by five percent for men and nine percent for women between 2003 and 2012.[12] As Charles Leven, Chair of the AARP Board of Directors, stated, ''People are showing us that it's possible to work well into their 80s and 90s with no thought of retirement. And people of advanced age are showing us they can go to school—to learn new skills, develop abilities, [or] to train for a new profession.'' [13]

Economic and social changes have also increased opportunities for individuals with disabilities to participate in the workforce. In the 25 years since these rules were originally published, the economy has shifted toward service and knowledge-based jobs that may allow for greater participation for some persons with physical limitations.[14] Reports indicate that the percentage of workers in physically demanding jobs has dropped from about twenty percent in 1950 to less than eight percent in 1996.[15] The

[1] Elizabeth Arias, United States Life Tables, 2002, *National Vital Statistics Reports* 53, no. 6 (Hyattsville, MD: National Center for Health Statistics, 2004), 33.

[2] Id.

[3] U.S. Census Bureau, ''Vital Statistics,'' *Statistical Abstract of the United States: 2004–2005* (Washington, D.C.: 2005), 71. Available from: *http://www.census.gov/prod/2004pubs/04statab/vitstat.pdf.* Accessed 7 July 2005.

[4] Kenneth G. Manton and others, ''Chronic Disability Trends in the U.S. Elderly Populations 1982 to 1994,'' *Proceedings of the National Academy of Sciences* 94, no. 6 (March 18, 1997): 2593. Available from: *http://www.pubmedcentral.nih.gov/articlerender.fcgi?tool=pubmed&pubmedid=9122240.* Accessed 29 June 2005.

[5] See generally Vicki A. Freedman and others, ''Recent Trends in Disability and Functioning among Older Adults in the United States: A Systematic Review,'' *Journal of the American Medical Association* 288, no. 24 (December 25, 2002).

[6] Ibid., 3144.

[7] Kenneth G. Manton and XiLiang Gu, ''Changes in the Prevalence of Chronic Disability in the United States Black and Nonblack Population above Age 65 from 1982–1999,'' *Proceedings of the National Academy of Sciences* 98, no. 11 (May 22, 2001): 6354–6359. Available from: *http://www.pnas.org/cgi/content/full/98/11/6354.* Accessed 29 June 2005.

[8] U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Health Statistics, *Health, United States, 2003 Special Excerpt: Trend Tables on 65 and Older Population* (Hyattsville, MD: U.S. Department of Health and Human Services, 2003). Available from: *http://www.cdc.gov/nchs/data/misc/hus2003excerpt.pdf.* Accessed 29 June 2005; Federal Interagency Forum on Aging-Related Statistics, *Older Americans 2004: Key Indicators of Well-Being* (Hyattsville, MD: Government Printing Office, 2004). Available from: *http://www.agingstats.gov/chartbook2004/OA_2004.pdf.* Accessed 29 June 2005.

[9] Vicki A. Freedman and Linda G. Martin, ''Understanding Trends in Functional Limitations among Older Americans,'' *American Journal of Public Health* 88, no. 10 (October, 1998): 1457.

[10] Ibid., 1460.

[11] Ibid., 1461.

[12] Christopher Reynolds, ''Boomers' 65 Will Be 'The New 50': Fear Factor Enters Equation as the Prospect of Boomer Retirement Age Pops Up on the Horizon,'' *Forecast,* November 2003. Available from: *http://www.findarticles.com/p/articles/mi_m0GDE/is_11_23/ai_n6102019.* Accessed June 2005.

[13] Charles Leven, *Older Workers: Opportunity at Our Doorstep,* speech delivered at the AARP Board of Directors meeting, Nikkei Senior Work-life Forum, Tokyo, Japan, September 2004. Available from: *http://www.aarp.org/research/work/employment/a2004–09–22-leven-09–04.html.* Accessed 29 June 2005.

[14] General Accounting Office, ''Federal Disability Assistance: Wide Array of Programs Needs to be Examined in Light of 21st Century Challenges,'' *Report to Congressional Committees* (Washington, D.C.: General Accounting Office, June 2005), 4. Available from: *http://www.gao.gov/new.items/d05626.pdf.* Accessed 7 July 2005.

[15] Eugene Steuerle and others, ''Can Americans Work Longer?,'' *Straight Talk on Social Security and Retirement Policy* no. 5 (Washington, D.C.: Urban Institute, August 1999). Available from: *http://www.urban.org/*

U.S. Department of Labor, Bureau of Labor Statistics, projects that job growth will occur in non-physically intensive occupations such as computer operators or service providers.[16]

Congress has also acknowledged the challenges that these economic and social changes may create. Section 201 of the Social Security Amendments of 1983 provided for a gradual increase in the age of eligibility for full retirement benefits from age 65 to age 67. This increase is being phased in over a period of 22 years. The full retirement age will be 66 in 2009 and 67 in 2027. These projections include a 10 year hiatus, during which there will be no increase in the full retirement age.

Shortly after the 1983 Amendments, Congress passed the Age Discrimination Act of 1986 banning mandatory retirement. Congress also enacted the Senior Citizens' Freedom to Work Act of 2000. Section 4 of this Act allows individuals who have attained full retirement age to voluntarily suspend those benefits in order to earn delayed retirement credits.

Clearly, Congress has acknowledged that it is both reasonable and necessary for people to work longer before retiring. At the same time, Congress has not made policy decisions with respect to age and its relationship to the determination of disability. Instead, Congress left the details of factoring age into the determination of disability to us, with the exception of statutory blindness.

Our own adjudicative experience suggests that the current rules should be revised to more accurately reflect the ages at which adjustment to other work becomes increasingly difficult. Since 1978, we have made millions of determinations and decisions at step five of the sequential evaluation process. It appears that there are many jobs that individuals, despite their age, are capable of performing and adjusting to, even though they have not done those jobs previously. It is appropriate for our rules to be adjusted to reflect these changing conditions.

For example, under §§ 404.1567(b) and 416.967(b) of our regulations and other policy instructions, individuals who can do ''light'' work are able to, among other things, stand and walk for most of an eight hour workday, lift and carry up to 20 pounds occasionally and 10 pounds frequently, and use their arms and hands for reaching, pushing, pulling, and manipulation with little or no limitation; they can generally do all of the tasks associated with sedentary work as well. Our rules in Table No. 2, Part 404, Subpart P, Appendix 2, of the Medical-Vocational Guidelines nevertheless require a finding of ''disabled'' for individuals who are age 55 and over who can still do the full range of ''light'' work unless they have transferable skills or recent education that provides for direct entry into skilled work.

While relevant, age has become less of a factor in determining whether individuals can make an adjustment to other work. Therefore, in addition to increasing our age categories by two years, we are proposing to revise the definition in our regulations for the category of ''advanced age'' to include individuals who are age 65 or older.

Why Was This Solution Chosen?

A review of the preambles to the Notice of Proposed Rulemaking (NPRM) and the final regulations that first defined the current age ranges helps us to illuminate why we are now proposing to change them. The preambles articulate that there was no hard data when we drew the lines defining the age categories in 1978; rather, we based the age categories on information about ''progressive deteriorative changes'' that affect the ''vocational capacity to perform jobs'' as individuals get older, our adjudicative experience, and our analysis and interpretation of data about age and employment ''to ascertain a point where it would be realistic to ascribe vocational limitations based on chronological age.'' It should also be noted that some of the employment data we used in 1978 dated to as far back as 1957.

In the NPRM, we stated:

> It is recognized that progressive deteriorative changes, which affect the vocational capacity to perform jobs, occur as individuals get older. *Since no conclusive data which relate varying specific chronological ages to specific vocational limitations for performing jobs are available, it was necessary to analyze and interpret the available age and employment data to ascertain points where it would be realistic to ascribe vocational limitations based on chronological age.* Past experience of the Social Security Administration in determining when age makes a difference in disability determinations has also been considered. * * *

43 FR at 9300 (emphasis added).

We explained when we published the final rules:

> Reference sources and materials dealing with chronological age in terms of vocational relationship deal principally with employment and rehabilitation activities, basing their conclusions mainly on the rate of participation in the labor force, the unemployment rate, duration of unemployment, and the proportion of hires to applicants. * * *
>
> In viewing the overall implications of the data in the sources cited, it must be recognized that there is a direct relationship between age and the likelihood of employment. However, the statutory definition of disability provides specifically that vocational factors must be viewed in terms of their effect on the ability to perform jobs rather than the ability to obtain jobs—in essence, in terms of how the progressive deteriorative changes which occur as individuals get older affect their vocational capacities to perform jobs. *Since no data or sources are available which relate var[y]ing specific chronological ages to specific vocational limitations for performing jobs, it has been necessary to analyze and interpret the available age-employment data to ascertain a point where it would be realistic to ascribe vocational limitations based on chronological age.*
>
> Prior experience of the Social Security Administration in determining when age makes a difference in disability determinations has also been considered. * * *

43 FR 55349, 55353 (November 28, 1978) (emphasis added).

Moreover, in response to public comments about our definitions of the age categories we explained:

> *We acknowledge that there are no conclusive data which relate varying specific chronologi[c]al ages to specific physiologically based vocational limitations for performing jobs;* this was a pioneering effort by SSA due to the unique nature of its disability program. Although ages 45, 50, 55 and 60 may be considered by some as too sharply defined as points in a progression of increasing difficulties, the concept of adversity of the aging process for severely impaired persons approaching advanced or retirement age is not arbitrary. * * *

Id. at 55359 (emphasis added).

As illustrated above, our analysis of current public health studies concludes that significant changes have occurred in the past 25 years which have not been reflected in our regulations. The United States has experienced a fundamental shift from a manufacturing based economy to a service based economy. Today, manufacturing's share of non-farm jobs is half of what it was in 1970.[17] We would be remiss in our stewardship responsibilities if we failed

Template.cfm?NavMenuID=24&template=/TaggedContent/ViewPublication.cfm&PublicationID=6435. Accessed 29 June 2005.

[16] U.S. Department of Labor, Bureau of Labor Statistics, *Working in the 21st Century* (Washington, D.C.: U.S. Department of Labor). Available from: *http://www.bls.gov/opub/working/home.htm.* Accessed 7 July 2005.

[17] U.S. Department of Labor, *Futurework: Trends and Challenges for Work in the 21st Century* (Washington, D.C.: U.S. Department of Labor). Available from: *http://www.dol.gov/asp/programs/history/herman/reports/futurework/report/pdf/ch4.pdf.* Accessed 31 August 2005.

to acknowledge these important developments. Indeed, in the NPRM that included the rules that established the current age categories, we noted:

[I]t is apparently the view of the staff of the House Ways and Means Committee that Congress intended the [Commissioner] to have not only the power, *but also the duty, to issue regulations* [regarding the vocational factors]. The staff, commenting on the broad language of the disability definition enacted by Congress, concluded that:

The original idea was that the broad language of the statutory definition would be amplified by regulations based on operational experience. (Staff of the House Committee on Ways and Means, 93d Cong., 2d Sess., Committee Staff Report on the Disability Insurance Program 6 (July 1974).)

The staff went on to suggest that [SSA]

* * * should explore the possibilities as to whether the definition of disability can be stated more specifically in the law or regulation, and whether more operational presumptions may be incorporated into its administration * * *

43 FR 9284, 9293 (March 7, 1978) (emphasis added).

Therefore, we determine the specific policy for how we consider age in evaluating claims for disability benefits, consistent with our authority to make rules and regulations under sections 205(a) and 1631(d)(1) of the Act.

What Rules Are We Proposing To Revise?

We are proposing revisions that would change our definitions of the categories for the vocational factor of ''age'' in §§ 404.1563 and 416.963 and related rules. The changes would:

- Remove references to age 65 as the end of the ''advanced age'' category and therefore remove references to ''closely approaching retirement age'' as a description of a subcategory of the ''advanced age'' category,
- Increase the ending age for the category ''younger person'' by 2 years, from age 49 to age 51,
- Increase the beginning of the age subcategory for younger persons who are illiterate or unable to communicate in English by 2 years, from age 45 to age 47,
- Increase the beginning and ending ages for the category ''closely approaching advanced age'' by 2 years, from age 50–54 to age 52–56, and
- Increase by 2 years the beginning age for the category ''advanced age'' from age 55 to age 57, and for the subcategory for older persons of ''advanced age'' from age 60 to age 62.

The following chart summarizes the current rules and these proposed changes:

Age category	Current rules	Proposed rules
Younger individual	Age 18–49	Under age 52.
Younger individual, illiterate or unable to communicate in English	Age 45–49	Age 47–51.
Closely approaching advanced age	Age 50–54	Age 52–56.
Advanced age	Age 55–64	Age 57 or older.
Closely approaching retirement age	Age 60–64	Age 62 or older.

We are not proposing to change the rules under part 404 of our regulations for statutorily blind individuals who are age 55 or older; those rules are mandated by the Act and therefore may not be changed without action by Congress. We are also not proposing to change any other rules related to age, such as the age for early retirement (age 62) and the age at which you may qualify for Medicare (age 65) based on retirement; these rules are also required by the Act.

Explanation of Changes

The following is an explanation of the specific changes we are proposing.

We are proposing to revise §§ 404.1563(c), (d), and (e) and 416.963(c), (d), and (e) to raise the ending ages of each of the age categories by 2 years. As a consequence, these changes would raise by 2 years the starting ages for the categories ''person closely approaching advanced age,'' ''person of advanced age,'' and ''closely approaching retirement age.'' The proposed new categories would be as follows:

- *Younger person* (proposed §§ 404.1563(c) and 416.963(c))—an individual who has not attained age 52. The current rules define the age category as age 18 to the 49 (*i.e.*, prior to the attainment of age 50). We propose to remove the reference to age 18 as the starting point of the age category because we sometimes have to make disability determinations using the sequential evaluation process for adults for individuals who are under age 18; for example, we sometimes have to determine whether individuals entitled to child's insurance benefits who are age 16–18 are disabled for purposes of determining whether their mothers or fathers can receive mother's or father's insurance benefits (see § 404.339 of our regulations). Consistent with other changes in these proposed rules, we would also increase the subcategory applicable to ''younger individuals'' who are illiterate and unable to communicate in English by 2 years, from age 45–49 to age 47–51.
- *Closely approaching advanced age* (proposed §§ 404.1563(d) and 416.963(d))—age 52–56.
- *Advanced age* (proposed §§ 404.1563(e) and 416.963(e))—age 57 or older. Consistent with other changes in these proposed rules, we would also increase the age at which we first consider individuals to be ''closely approaching retirement age'' by 2 years, from age 60 to age 62. Also, as we noted earlier in this preamble, we sometimes make disability determinations for individuals who are older than ''full retirement age.'' Therefore, we propose to remove the term ''closely approaching retirement age'' in these sections and throughout our other regulations. Instead we would refer only to ''advanced age, age 62 or older'' or just ''age 62 or older,'' as appropriate to the context of the language of the rule. For clarity, we propose to revise the age criterion for rule 203.10 to ''advanced age, age 57–61.''

In addition, we propose to make conforming changes to the following regulations for the same reasons that we are changing the rules in §§ 404.1563 and 416.963 and for consistency in our rules:

- In §§ 404.1562(b) and 416.962(b), we would change the provision for individuals who are at least 55 years old, have no more than a ''limited'' education (see §§ 404.1564 and 416.964), and have no past relevant work, to increase the age requirement to 57 years.
- In the first sentence of §§ 404.1568(d)(4) and 416.968(d)(4), we would change the provisions that refer to ''advanced age'' from age 55 to age 57. In the fifth and sixth sentences, we would change the provisions that refer to transferability of skills in individuals who are at least 60 years old to increase the age requirement to 62 years.
- In appendix 2 to subpart P of part 404, the Medical-Vocational Guidelines, we propose to make conforming changes in §§ 201.00(d)–(i), 202.00(d), 202.00(f)–(g), and 203.00(b)–(c). We would also change the reference to ''closely approaching retirement age'' in Rule

203.01 in Table No. 3 to ''advanced age, age 62 or older.''

Why are We Proposing To Remove References to Age 65 as the End of the ''Advanced Age'' Category?

Even though our current regulations do not include rules for evaluating disability of individuals who are at least 65 years old, we have other published policy statements that we use to make these decisions. See Social Security Ruling (SSR) 03–3p: ''Policy Interpretation Ruling—Titles II and XVI: Evaluation of Disability and Blindness in Initial Claims for Individuals Aged 65 or Older,'' 68 FR 63833 (2003). The proposal in these regulations to remove the reference to age 64 as the end of the category of ''advanced age'' would only incorporate into our regulations longstanding policy interpretations currently set forth in SSR 03–3p.

Although our regulations currently provide that the highest age category, advanced age, ends with the attainment of age 65, we sometimes have to make disability determinations for people who are older, as described in the situations set forth below.

- Section 216(l) of the Act provides for a gradual increase in the full retirement age from age 65 to age 67. These changes first affected individuals who were born in 1938; that is, who turned age 65 in 2003. By 2027, the incremental increases will be complete, and a full retirement age of 67 will be applicable to all individuals who were born in 1960 or later. (These provisions do not change the age at which an individual can take early retirement at a reduced benefit amount, which remains at age 62.) Under title II, an individual can establish entitlement to benefits based on disability or blindness until the month in which he or she attains full retirement age. Therefore, as a result of the increases in the full retirement age, we are now processing some disability claims under title II of the Act for individuals who are aged 65 or older as described below:
- Under Public Law 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, ''qualified'' aliens who were lawfully residing in the United States on August 22, 1996, and who are disabled or blind as defined in section 1614(a) of the Act are eligible for benefits under title XVI, so long as all other eligibility requirements are met. Individuals can establish eligibility based on disability or blindness at any age, even on or after attainment of age 65.

We may also need to make determinations of disability under title XVI for other individuals aged 65 or older to determine:

- State supplements in some States under section 1616 of the Act;
- Whether the work incentive provisions of section 1619(b) of the Act are applicable; or
- Appropriate deeming of income and resources under section 1621(f)(1) of the Act and §§ 416.1160, 416.1161, 416.1166a, and 416.1204 of our regulations.

What Programs Would These Proposed Regulations Affect?

These proposed regulations would affect disability determinations and decisions we make under title II and title XVI of the Act. In addition, to the extent that Medicare entitlement and Medicaid eligibility are based on whether you qualify for disability benefits under title II or title XVI, these regulations would also affect the Medicare and Medicaid programs.

Who Can Get Disability Benefits?

Under title II of the Act, we provide for the payment of disability benefits if you are disabled and belong to one of the following three groups:

- Workers insured under the Act,
- Children of insured workers, and
- Widows, widowers, and surviving divorced spouses (see § 404.336) of insured workers.

Under title XVI of the Act, we provide for Supplemental Security Income (SSI) payments on the basis of disability if you are disabled and have limited income and resources.

How Do We Define ''Disability''?

Under both the title II and title XVI programs, disability must be the result of any medically determinable physical or mental impairment or combination of impairments that is expected to result in death or which has lasted or can be expected to last for a continuous period of at least 12 months. Our definitions of disability are shown in the following table:

If you file a claim under . . .	And you are . . .	Disability means you have a medically determinalbe impairment(s) as described above that results in . . .
title II	an adult or a child	the inability to do any substantial gainful activity (SGA).
title XVI	an individual age 18 or older	the inability to do any SGA.
title XVI	an individual udner age 18	marked and severe functional limitations.

As required by sections 223(d) and 1614(a)(3) of the Act, if you are an adult, we consider you to be disabled only if your physical or mental impairment(s) is so severe that you are not only unable to do your previous work, but you cannot, considering your age, education, and work experience, engage in any other kind of substantial gainful activity that exists in the national economy. This is true regardless of whether this kind of work exists in the immediate area in which you live, whether a specific job vacancy exists for you, or whether you would be hired if you applied for work. (See sections 223(d)(2)(A) and 1614(a)(3)(B) of the Act.)

How Do We Decide Whether You Are Disabled?

If you are applying for title II benefits or if you are an adult applying for title XVI benefits, we use a five-step sequential evaluation process, which we describe in our regulations at §§ 404.1520 and 416.920, to decide whether you are disabled under the statutory definition. We follow the five steps in order and stop as soon as we can make a determination or decision. The steps are:

1. Are you working and is the work you are doing substantial gainful activity? If you are working and engaging in substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience. If not, we will go on to step two.

2. Do you have a ''severe'' impairment? If you do not have an impairment or combination of impairments that significantly limits your physical or mental ability to do basic work activities, we will find that you are not disabled. If you do, we will go on to step three.

3. Do you have an impairment(s) that meets or medically equals the severity of an impairment in the listings? If you do, and the impairment(s) meets the duration requirement, we will find you disabled. If you do not, we will go on to step four of the sequence.

4. Do you have the residual functional capacity (RFC) to do your past relevant work? If you do, we will find that you are not disabled. If you do not, we will go on to step five.

5. Does your impairment(s) prevent you from doing any other work that exists in the national economy, considering your residual functional capacity, age, education, and work experience? If it does, and it meets the duration requirement, we will find that you are disabled. If it does not, we will find that you are not disabled.

If you are already receiving benefits, we use a different sequential evaluation process when we decide whether your disability continues. See §§ 404.1594 and 416.994 of our regulations. This process also includes a step that considers your ability to do other work, considering your RFC and your vocational factors of age, education, and past work experience.

How Do We Use the Medical-Vocational Rules?

As discussed in §§ 404.1569 and 416.969, at step five of the sequential evaluation process we use the medical-vocational rules in appendix 2 of subpart P of part 404. (By reference, § 416.969 of the regulations provides that appendix 2 also applies to adults claiming SSI payments based on disability.) In general, the medical-vocational rules take administrative notice of the existence of numerous unskilled occupations at the exertional levels defined in the regulations, such as ''sedentary,'' ''light,'' and ''medium.'' The rules consider RFC and the vocational factors of age, education, and past work experience in terms of an individual's ability to adjust to other work.

The medical-vocational rules direct a determination or decision whether you are disabled if your RFC and vocational factors (i.e., your age, education, and past work experience) match the criteria in a rule. If your RFC or any one of the vocational factors of age, education, and past work experience do not match the criteria in a medical-vocational rule, the rules provide a framework for making a determination or decision at this step.

Under our policy, we recognize that advancing age makes it increasingly more difficult for older persons to adjust to other work and the medical-vocational rules reflect that policy. However, if you have skilled or semiskilled work experience, you may have gained skills that make it easier for you to adjust to other work—even at an advanced age. If your skills can be used in (transferred to) other skilled or semiskilled work within your RFC, we will ordinarily find that you can adjust to other work and are not disabled regardless of your age or education. Some rules in appendix 2 also direct a conclusion, or provide a framework for deciding whether a person is disabled, when a person has ''skills'' acquired from previous skilled or semiskilled work that are ''transferable'' to other skilled or semiskilled work.

What Are Our Rules on Age as a Vocational Factor?

Our basic rules regarding age as a vocational factor, including our rules defining the age categories we use in appendix 2, are found in §§ 404.1563 and 416.963, ''Your age as a vocational factor.'' Under these regulations, we define three broad age categories:

- In current §§ 404.1563(c) and 416.963(c), we define a *younger person* as an individual who is under age 50. We explain that, if you are in this category, we generally do not consider that your age will seriously affect your ability to adjust to other work. Within this category, however, we include a subcategory for individuals who are age 45–49; we explain that in some circumstances we consider that these persons are more limited in their ability to adjust to other work than persons who have not attained age 45.
- In current §§ 404.1563(d) and 416.963(d), we define a *person closely approaching advanced age* as an individual who is age 50–54. We explain that, if you are in this category, we will consider that your age along with a severe impairment(s) and limited work experience may seriously affect your ability to adjust to other work.
- In current §§ 404.1563(e) and 416.963(e), we define a *person of advanced age* as an individual who is age 55 or older. We also include a subcategory for individuals who are age 60–64, which we call *closely approaching retirement age*. We explain that we have special rules for individuals who are closely approaching retirement age in our rules regarding transferability of skills for individuals of advanced age, in §§ 404.1568(d)(4) and 416.968(d)(4).

In addition, other disability rules refer to particular ages and age categories. As previously noted, we are proposing to make changes to the following sections:

- Sections 404.1562 and 416.962, ''Medical-vocational profiles showing an inability to make an adjustment to other work,'' include a special provision for individuals who are at least 55 years, have no more than a limited education, and have no past relevant work experience. (See §§ 404.1562(b) and 416.962(b).)
- Sections 404.1568(d)(4) and 416.968(d)(4), provide our rules for determining transferability of skills for individuals who are of ''advanced age,'' including individuals who are ''closely approaching retirement age.''
- The rules and explanatory text of appendix 2 of subpart P of part 404 provide guidance for considering the different age categories defined in §§ 404.1563 and 416.963 when we determine whether you can make an adjustment to other work.

What Is Our Authority To Make Rules and Set Procedures for Determining Whether a Person Is Disabled Under the Statutory Definition?

Section 205(a) of the Act and, by reference to section 205(a), section 1631(d)(1) provide that:

> The Commissioner of Social Security shall have full power and authority to make rules and regulations and to establish procedures, not inconsistent with the provisions of this title, which are necessary or appropriate to carry out such provisions, and shall adopt reasonable and proper rules and regulations to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits hereunder.

Clarity of These Proposed Rules

Executive Order (E.O.) 12866, as amended by E.O. 13258, requires each agency to write all rules in plain language. In addition to your substantive comments on these final rules, we invite your comments on how to make them easier to understand.

For example:

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

When Will We Start To Use These Rules?

We will not use these rules until we evaluate the public comments we receive on them, determine whether they should be issued as final rules, and issue final rules in the **Federal Register**. If we publish final rules, we will explain in the preamble how we will apply them, and summarize and

respond to the public comments. Until the effective date of any final rules, we will continue to use our current rules.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget and have determined that these proposed rules meet the criteria for an economically significant regulatory action under Executive Order 12866, as amended by Executive Order 13258. The Office of the Chief Actuary estimates that these proposed rules, if finalized, will result in reduced program outlays resulting in the following savings (in millions of dollars) over the next 10 years:

Reduction in Federal benefit outlays

Fiscal year	OASDI	SSI	Medicare	Medicaid	Total
2006	136	21	.....	8	165
2007	263	43	.....	26	332
2008	229	53	51	37	369
2009	243	63	102	50	459
2010	303	75	109	59	546
2011	326	94	117	76	612
2012	369	93	135	94	691
2013	414	115	153	107	789
2014	454	130	173	128	884
2015	495	146	195	151	987
Totals:					
2006–10	1,174	255	262	180	1,871
2006–15	3,231	834	1,034	735	5,834

Note: Totals may not equal the sum of the rounded components.

Regulatory Flexibility Act

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

Paperwork Reduction Act

These proposed rules impose no reporting or recordkeeping requirements requiring OMB clearance.

References

The sources we consulted while developing these proposed rules are cited in the preamble text.

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

List of Subjects

20 CFR Part 404

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

20 CFR Part 416

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

Dated: October 28, 2005.

Jo Anne B. Barnhart,

Commissioner of Social Security.

For the reasons set out in the preamble, we are proposing to amend subpart P of part 404 and subpart I of part 416 of chapter III of title 20 of the Code of Federal Regulations as set forth below:

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

Subpart P—[Amended]

1. The authority citation for subpart P 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. Amend § 404.1562 by revising the heading and the first sentence of paragraph (b) to read as follows:

§ 404.1562 Medical-vocational profiles showing an inability to make an adjustment to other work.

* * * * *

(b) *If you are at least 57 years old, have no more than a limited education, and have no past relevant work experience.* If you have a severe, medically determinable impairment(s) (*see* §§ 404.1520(c), 404.1521, and 404.1523), are of advanced age (age 57 or older, *see* § 404.1563), have a limited education or less (*see* § 404.1564), and have no past relevant work experience (*see* § 404.1565), we will find you disabled. * * *

* * * * *

3. Amend § 404.1563 by revising paragraphs (c), (d), and (e) to read as follows:

§ 404.1563 Your age as a vocational factor.

* * * * *

(c) *Younger person.* If you are a younger person (under age 52), we generally do not consider that your age will seriously affect your ability to adjust to other work. However, in some circumstances, we consider that persons age 47–51 are more limited in their ability to adjust to other work than persons who have not attained age 47. See Rule 201.17 in appendix 2.

(d) *Person closely approaching advanced age.* If you are closely approaching advanced age (age 52–56), we will consider that your age along with a severe impairment(s) and limited work experience may seriously affect your ability to adjust to other work.

(e) *Person of advanced age.* We consider that at advanced age (age 57 or older) age significantly affects a person's ability to adjust to other work. We have special rules for persons of advanced age, including persons in this category who are age 62 or older. See § 404.1568(d)(4).

* * * * *

4. Amend § 404.1568 by revising the first, fifth, and sixth sentences of paragraph (d)(4) to read as follows:

§ 404.1568 Skill requirements.

* * * * *

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

* * * * *

(4) *Transferability of skills for individuals of advanced age.* If you are of advanced age (age 57 or older), and you have a severe impairment(s) that limits you to *sedentary or light work,* we will find that you cannot make an adjustment to other work unless you have skills that you can transfer to other skilled or semiskilled work (or you have recently completed education which provides for direct entry into skilled work) that you can do despite your impairment(s). * * * If you are of advanced age but have not attained age 62, and you have a severe impairment(s) that limits you to no more than *light* work, we will apply the rules in paragraphs (d)(1) through (d)(3) of this section to decide if you have skills that are transferable to skilled or semiskilled light work (see § 404.1567(b)). If you are age 62 or older and you have a severe impairment(s) that limits you to no more than *light* work, we will find that you have skills that are transferable to skilled or semiskilled light work only if the light work is so similar to your previous work that you would need to make very little, if any, vocational adjustment in terms of tools, work processes, work settings, or the industry. * * *

5. Amend section 201.00 of appendix 2, subpart P, part 404—Medical-Vocational Guidelines—by revising the first sentence of paragraph (d), paragraph (f), the first sentence of paragraph (g), paragraph (h)(1) introductory text, the first sentence of paragraph (h)(2), the first sentence of paragraph (h)(3), and the last sentence of paragraph (i) to read as follows:

APPENDIX 2 TO SUBPART P OF PART 404—MEDICAL-VOCATIONAL GUIDELINES

* * * * *

201.00 *Maximum sustained work capability limited to sedentary work as a result of severe medically determinable impairment(s).*

* * * * *

(d) The adversity of functional restrictions to sedentary work at advanced age (57 or older) for individuals with no relevant past work or who can no longer perform vocationally relevant past work and have no transferable skills, warrants a finding of disabled in the absence of the rare situation where the individual has recently completed education which provides a basis for direct entry into skilled sedentary work. * * *

* * * * *

(f) In order to find transferability of skills to skilled sedentary work for individuals who are of advanced age (57 or older), there must be very little, if any, vocational adjustment required in terms of tools, work processes, work settings, or the industry.

(g) Individuals approaching advanced age (age 52–56) may be significantly limited in vocational adaptability if they are restricted to sedentary work. * * *

* * * * *

(h)(1) The term *younger individual* is used to denote an individual who has not attained age 52. For individuals who are age 47–51, age is a less advantageous factor for making an adjustment to other work than for those who have not attained age 47. Accordingly, a finding of ''disabled'' is warranted for individuals age 47–51 who: * * *

(2) For individuals who are under age 47, age is a more advantageous factor for making an adjustment to other work. * * *

(3) Nevertheless, a decision of ''disabled'' may be appropriate for some individuals under age 47 (or individuals age 47–51 for whom rule 201.17 does not direct a decision of disabled) who do not have the ability to perform a full range of sedentary work. * * *

* * * * *

(i) * * * Thus, the functional capability for a full range of sedentary work represents sufficient numbers of jobs to indicate substantial vocational scope for those individuals who have not attained age 47 even if they are illiterate or unable to communicate in English.

* * * * *

6. Amend section 202.00 of appendix 2, subpart P, part 404—Medical-Vocational Guidelines—by revising paragraph (d), paragraph (f), the last sentence of paragraph (g) to read as follows:

APPENDIX 2 TO SUBPART P OF PART 404—MEDICAL-VOCATIONAL GUIDELINES

* * * * *

202.00 *Maximum sustained work capability limited to light work as a result of severe medically determinable impairment(s).*

* * * * *

(d) Where the same factors in paragraph (c) of this section regarding education and work experience are present, but where age, though not advanced, is a factor which significantly limits vocational adaptability (i.e., closely approaching advanced age, 52–56) and an individual's vocational scope is further significantly limited by illiteracy or inability to communicate in English, a finding of disabled is warranted.

* * * * *

(f) For a finding of transferability of skills to light work for individuals of advanced age who are age 62 or older, there must be very little, if any, vocational adjustment required in terms of tools, work processes, work settings, or the industry.

(g) * * * This, in turn, represents substantial vocational scope for younger individuals (individuals who have not attained age 52) even if illiterate or unable to communicate in English.

* * * * *

7. Amend section 203.00 of appendix 2, subpart P, part 404—Medical-Vocational Guidelines—by revising the second sentence of paragraph (b), paragraph (c), and the age criteria for Rules 203.01 and 203.10 in Table No. 3 to read as follows:

APPENDIX 2 TO SUBPART P OF PART 404—MEDICAL-VOCATIONAL GUIDELINES

* * * * *

203.00 *Maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s).*

* * * * *

(b) * * * Even the adversity of advanced age (57 or over) and a work history of unskilled work may be offset by the substantial work capability represented by the functional capacity to perform medium work. * * *

(c) However, the absence of any relevant work experience becomes a more significant adversity for individuals of advanced age (57 or older). Accordingly, this factor, in combination with a limited education or less, militates against making a vocational adjustment to even this substantial range of work and a finding of disabled is appropriate. Further, for individuals age 62 or older with a work history of unskilled work and with marginal education or less, a finding of disabled is appropriate.

TABLE NO. 3.—RESIDUAL FUNCTIONAL CAPACITY: MAXIMUM SUSTAINED WORK CAPABILITY LIMITED TO MEDIUM WORK AS A RESULT OF SEVERE MEDICALLY DETERMINABLE IMPAIRMENT(S)

Rule	Age	Education	Previous work experience	Decision
203.01	Advanced age, age 62 or older.	Marginal or none.	Unskilled or none.	Disabled.
*	*	*	*	*
203.10	Advanced age, age 57–61.	Limited or less	None	Disabled.
*	*	*	*	*

* * * * *

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

Subpart I—[Amended]

8. The authority citation for subpart I 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 1383(b); 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).

9. Amend § 416.962 by revising the paragraph heading and the first sentence of paragraph (b) to read as follows:

§ 416.962 Medical-vocational profiles showing an inability to make an adjustment to other work.

* * * * *

(b) *If you are at least 57 years old, have no more than a limited education, and have no past relevant work experience.* If you have a severe, medically determinable impairment(s) (*see* §§ 416.920(c), 416.921, and 416.923), are of advanced age (age 57 or older, *see* § 416.963), have a limited education or less (*see* § 416.964), and have no past relevant work experience (*see* § 416.965), we will find you disabled. * * *

10. Amend § 416.963 by revising paragraphs (c), (d), and (e) to read as follows:

§ 416.963 Your age as a vocational factor.

* * * * *

(c) *Younger person.* If you are a younger person (under age 52), we generally do not consider that your age will seriously affect your ability to adjust to other work. However, in some circumstances, we consider that persons age 47–51 are more limited in their ability to adjust to other work than persons who have not attained age 47. See Rule 201.17 in appendix 2 of subpart P of part 404 of this chapter.

(d) *Person closely approaching advanced age.* If you are closely approaching advanced age (age 52–56), we will consider that your age along with a severe impairment(s) and limited work experience may seriously affect your ability to adjust to other work.

(e) *Person of advanced age.* We consider that at advanced age (age 57 or older) age significantly affects a person's ability to adjust to other work. We have special rules for persons of advanced age, including persons in this category who are age 62 or older. See § 416.968(d)(4).

* * * * *

11. Amend § 416.968 by revising the first, fifth, and sixth sentences of paragraph (d)(4) to read as follows:

§ 416.968 Skill requirements.

* * * * *

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

* * * * *

(4) *Transferability of skills for individuals of advanced age.* If you are of advanced age (age 57 or older), and you have a severe impairment(s) that limits you to *sedentary or light work,* we will find that you cannot make an adjustment to other work unless you have skills that you can transfer to other skilled or semiskilled work (or you have recently completed education which provides for direct entry into skilled work) that you can do despite your impairment(s). * * * If you are of advanced age but have not attained age 62, and you have a severe impairment(s) that limits you to no more than *light* work, we will apply the rules in paragraphs (d)(1) through (d)(3) of this section to decide if you have skills that are transferable to skilled or semiskilled light work (see § 416.967(b)). If you are age 62 or older and you have a severe impairment(s) that limits you to no more than *light* work, we will find that you have skills that are transferable to skilled or semiskilled light work only if the light work is so similar to your previous work that you would need to make very little, if any, vocational adjustment in terms of tools, work processes, work settings, or the industry. * * *

[FR Doc. 05–21975 Filed 11–3–05; 8:45 am]

BILLING CODE 4191–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[R03–OAR–2005–VA–0013; FRL–7993–6]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Redesignation of the Shenandoah National Park Ozone Nonattainment Area To Attainment and Approval of the Area's Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a redesignation request and a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. The Virginia Department of Environmental Quality (VADEQ) is requesting that the Shenandoah National Park area (the SNP area) be redesignated as attainment for the 8-hour ozone national ambient air quality standard (NAAQS). In conjunction with its redesignation request, the VADEQ submitted a SIP revision consisting of a maintenance plan for the SNP area that provides for continued attainment of the 8-hour ozone NAAQS for the next 10 years. EPA is proposing to make a determination that the SNP area has attained the 8-hour ozone NAAQS based upon three years of complete, quality-assured ambient air quality ozone monitoring data for 2002–2004. EPA's proposed approval of the 8-hour ozone redesignation request is based on its