

§ 73.63 [Amended]

2. § 73.63 is amended as follows:

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R-3801A Camp Claiborne, LA (Amended)

By removing the current boundaries, designated altitudes, and controlling agency, and substituting the following:

Boundaries. Beginning at lat. 31°11'46" N., long. 92°30'16" W.; to lat. 31°05'16" N., long. 92°34'51" W.; to lat. 31°13'56" N., long. 92°49'46" W.; to lat. 31°18'01" N., long. 92°46'31" W.; to lat. 31°15'16" N., long. 92°41'46" W.; to lat. 31°17'11" N., long. 92°40'11" W.; to the point of beginning.

Designated altitudes. Surface to, but not including, 10,000 feet MSL.

Controlling agency. U.S. Army, Fort Polk Approach Control.

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R-3801B Camp Claiborne, LA (Amended)

By removing the current boundaries, designated altitudes, and controlling agency and substituting the following:

Boundaries. Beginning at lat. 31°11'46" N., long. 92°30'16" W.; to lat. 31°05'16" N., long. 92°34'51" W.; to lat. 31°13'56" N., long. 92°49'46" W.; to lat. 31°18'01" N., long. 92°46'31" W.; to lat. 31°15'16" N., long. 92°41'46" W.; to lat. 31°17'11" N., long. 92°40'11" W.; to the point of beginning.

Designated altitudes. 10,000 feet MSL to, but not including, FL 180.

Controlling agency. U.S. Army, Fort Polk Approach Control.

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R-3801C Camp Claiborne, LA (Amended)

By removing the current boundaries, designated altitudes, and controlling agency and substituting the following:

Boundaries. Beginning at lat. 31°11'46" N., long. 92°30'16" W.; to lat. 31°05'16" N., long. 92°34'51" W.; to lat. 31°13'56" N., long. 92°49'46" W.; to lat. 31°18'01" N., long. 92°46'31" W.; to lat. 31°15'16" N., long. 92°41'46" W.; to lat. 31°17'11" N., long. 92°40'11" W.; to the point of beginning.

Designated altitudes. FL 180 to FL 230.

Controlling agency. U.S. Army, Fort Polk Approach Control.

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Issued in Washington, DC, on December 30, 2003.

Paul Gallant,

Acting Manager, Airspace and Rules Division.
[FR Doc. 04-238 Filed 1-5-04; 8:45 am]

BILLING CODE 4910-13-P

SOCIAL SECURITY ADMINISTRATION**20 CFR Part 416**

RIN 0960-AF84

Determining Income and Resources under the Supplemental Security Income (SSI) Program

AGENCY: Social Security Administration.

ACTION: Proposed rules.

SUMMARY: We propose to revise our regulations that explain how we determine an individual's income and resources under the supplemental security income (SSI) program in order to achieve three program simplifications. First, we propose to eliminate clothing from the definition of income and from the definition of in-kind support and maintenance. As a result, we generally will not count gifts of clothing as income when we decide whether a person can receive SSI benefits or when we compute the amount of the benefits. Second, we propose to change our resource-counting rules in the SSI program by eliminating the dollar value limit for the exclusion of household goods and personal effects. As a result, we would not count household goods and personal effects as resources when we decide whether a person can receive SSI benefits. Third, we propose to change our rules for excluding an automobile in determining the resources of an SSI applicant or recipient. We propose to exclude one automobile (the "first" automobile) from resources if it is used for transportation for the individual or a member of the individual's household, without consideration of its value. These changes will simplify our rules, making them less cumbersome to administer and easier for the public to understand and follow. Our experience of nearly 30 years of processing SSI claims indicates that these simplifications would have minimal effect on the outcome of SSI eligibility determinations.

DATES: To be sure that we consider your comments, we must receive them by March 8, 2004.

ADDRESSES: You may give us your comments by: using our Internet site facility (*i.e.*, Social Security Online) at <http://policy.ssa.gov/pnpublic.nsf/LawsRegs> or the Federal eRulemaking Portal: <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, Maryland 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>. It is also available on the Internet site for SSA, Social Security Online, at <http://policy.ssa.gov/pnpublic.nsf/LawsRegs>.

FOR FURTHER INFORMATION CONTACT:

Robert Augustine, Social Insurance Specialist, Office of Regulations, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-0020 or TTY (410) 966-5609. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION:**Background**

The basic purpose of the SSI program (title XVI of the Social Security Act (the Act)) is to ensure a minimum level of income to people who are age 65 or older, or blind or disabled, and who have limited income and resources. The law provides that payments can be made only to people who have income and resources below specified amounts. Therefore, the amount of income and resources a person has is a major factor in deciding whether the person can receive SSI benefits and in computing the amount of the benefits.

The General Accounting Office (GAO) has reported that annual costs to the Federal government for administering means-tested Federal programs are significant and that eligibility determination activities make up a substantial portion of these costs (Means-Tested Programs: Determining Financial Eligibility is Cumbersome and Can Be Simplified, *GAO-02-58*, November 2, 2001 available at <http://www.gao.gov>). In particular, the GAO cited the variations and complexity of Federal financial eligibility rules as contributing to processes that are often duplicative and cumbersome for staff workers (including state and local caseworkers) and for those who apply for assistance. In order to streamline our eligibility determination process, as well as make our financial eligibility rules more consistent with those of other means-tested Federal programs, we propose to make the following changes to our rules on determining income and resources under the SSI program.

Explanation of Proposed Changes

A. Elimination of Clothing from the Definitions of Income and In-kind Support and Maintenance

Section 1612 of the Act defines income as both earned income and unearned income, including support and maintenance furnished in cash or in kind. Under our current rules, income may include anything you receive in cash or in kind that you can use to meet your needs for food, clothing, and shelter. Both earned income and unearned income can include items received in kind. Generally, we value in-kind items at their current market value. However, we have special rules for valuing food, clothing, or shelter that is received as unearned income.

In-kind support and maintenance is unearned income in the form of food, clothing, or shelter that is given to a person or that the person receives because someone else pays for it. Section 1612(a)(2)(A) of the Act provides that if an eligible individual receives in-kind support and maintenance, his or her SSI payment may be reduced by up to one-third of the monthly Federal benefit rate. To determine whether the one-third reduction applies, we must ask claimants and beneficiaries a lengthy series of questions about their living arrangements and household expenses. We also must obtain similar information from the homeowner or head of the household, who often is not a claimant or recipient.

The complexity of the rules for valuing in-kind support and maintenance results in reporting requirements that are difficult for the public to understand and follow. We are proposing to simplify the SSI program by eliminating clothing from the definition of income and from the definition of in-kind support and maintenance. Clothing is one of the basic sustenance needs, along with food and shelter. However, unlike food and shelter, clothing generally is not received every month. Items of clothing are more likely to be received infrequently and sporadically, and they generally have no substantial financial value. In addition, our attempts to discover and assign a value to gifts of clothing are not only administratively burdensome, but have been viewed as harsh and demeaning and as providing a disincentive for family members to help needy relatives.

After 30 years of administering the SSI program, our experience shows that clothing received as in-kind support and maintenance almost never affects an individual's eligibility for SSI or the

amount of benefits. Thus, questioning individuals about items as personal as basic clothing may be seen as intrusive without achieving any substantial program goal or enhancing program integrity. We are proposing this change to simplify our rules and improve our work efficiency. This change would make our rules less intrusive and more protective of the dignity and privacy of claimants and beneficiaries, and would not significantly increase SSI program costs.

We propose to remove the specific reference to clothing from our broad definition of income in § 416.1102, which covers both earned and unearned income. This will permit us to disregard gifts of clothing when we apply the special rules for valuing in-kind support and maintenance. Counting gifts of clothing puts a negative face on the SSI program without advancing any substantial program goal and incurs administrative costs.

There will be one situation where we still would be required to consider clothing as income. This situation could occur when an individual receives clothing from an employer that we must count as wages under section 1612(a)(1)(A) of the Act. Wages are the same for SSI purposes as for the earnings test in the Social Security retirement program. Under the earnings test, wages may include the value of food, clothing, or shelter, or other items provided instead of cash. We refer to these items as in-kind earned income. Because we are required by the Act to count the value of these items as income, we are not proposing any changes to our current rule in § 416.1110(a). Situations where clothing constitutes wages are very uncommon.

These proposed rules would remove references to clothing throughout subpart K, which explains how we count income. We also are updating the second example in § 416.1103(g) to reflect that SSI eligibility is now based on an individual's income, resources, and other relevant circumstances in a month rather than in a calendar quarter. The change from a quarterly determination to a monthly determination, which is explained in § 416.420, was effective April 1, 1982 pursuant to section 2341 of Public Law 97-35. This example was inadvertently overlooked when conforming changes were previously made.

B. Exclusion of Household Goods and Personal Effects

Section 1613(a)(2)(A) of the Act provides that in determining the resources of an individual (and eligible spouse, if any) SSA will exclude

household goods and personal effects to the extent that their total value does not exceed an amount that the Commissioner decides is reasonable. In interpreting "reasonable" value of household goods and personal effects, § 416.1216(b) of our regulations provides for an exclusion of up to \$2,000 of the total equity value. The amount in excess of \$2,000 is counted against the resource limit, currently \$2,000 for an individual and \$3,000 for an individual and spouse.

Section 416.1216(a) defines household goods as including household furniture, furnishings and equipment that are commonly found in or about a house and used in connection with the operation, maintenance and occupancy of the home. Also included are furniture, furnishings and equipment used in the functions and activities of home and family life as well as those items that are for comfort and accommodation. This section specifically defines personal effects as including clothing, jewelry, items of personal care, individual educational and recreational items. In addition, § 416.1216(c) provides specific exclusions for a wedding ring, an engagement ring and equipment required because of a person's physical condition.

To determine the equity value of household goods and personal effects, we ask the person for a list of household and personal items, the value of each, and what the individual owes on each. This process can be complex, difficult for the public to understand, and unduly intrusive into the person's affairs. We are proposing to amend these rules as part of our efforts to simplify the SSI program.

We propose to amend our regulations for household goods and personal effects by eliminating the dollar value limit and by excluding from countable resources all:

- Household goods if they are items of personal property, found in or near a home, that are used on a regular basis, or items needed by the householder for maintenance, use and occupancy of the premises as a home; and
- Personal effects if they are items of personal property that ordinarily are worn or carried by the individual, or are articles that otherwise have an intimate relation to the individual.

Thus, we would be interpreting the word "reasonable" in section 1613(a)(2)(A) of the Act in terms other than a specific dollar limit. The reasonable value would instead be based on the uses and characteristics of the item. Our current rules on household goods and personal effects

reflect our view that it is reasonable to totally exclude certain items of personal property because they are rarely of significant value or are intimately related to the individual and his or her particular needs. Accordingly, we have determined that requiring conversion of such items for subsistence needs would be unreasonable.

Currently, § 416.1216(c) provides for totally excluding a wedding ring and an engagement ring, and household goods and personal effect items required because of a person's physical condition. We propose to expand this approach generally to household goods and personal effects so that they may be totally excluded from resources because our experience in 30 years of administering the SSI program shows that these items almost never have any substantial value, particularly once they are used.

These proposed rules would amend § 416.1216 to define and identify household goods and personal effects that we will not count as resources. Included in the list of excluded personal effects are items of cultural or religious significance since these items have an intimate relationship to an individual. The list of exclusions also includes items required due to an individual's impairment. This would allow for exclusion of items required because of any impairment, not just physical impairments. For example, our experience has shown that children and adults with learning disabilities use personal computers to assist them with schoolwork and other daily activities. This change will allow us to exclude items such as personal computers from countable resources.

We also propose to amend § 416.1210(b) by referring to § 416.1216 for the definition of household goods and personal effects that we will not count as resources.

While simplifying the SSI program, our proposed changes continue to recognize that individuals applying for SSI may own items for investment purposes which may be quite valuable. Such items as gems, jewelry that is not worn or held for family significance, and collectibles would still be considered countable resources and subject to the limits in § 416.1205. Thus, the proposed exclusion for household goods and personal effects would not apply to such items that have investment value.

Our experience in administering the SSI program suggests that the change we are proposing would affect the eligibility of few applicants and recipients. However, this proposed change would simplify our rules and

improve our work efficiency without significantly increasing program costs. It would make our rules less intrusive and more protective of the dignity of applicants and recipients. This intrusion into the privacy of a person's home puts an unnecessary negative face on the SSI program without achieving any corresponding gain in program integrity or payment accuracy. It also would more accurately reflect the reality that all SSI applicants and recipients need household goods and personal effects to perform activities of daily living and maintain quality of life. Accordingly, we believe it would be unreasonable to require applicants and recipients to convert these items to cash in order to meet their subsistence needs. The resale value of typical household items is minimal after the item has been used. Although it could be expensive to replace certain household items, these items would be worth very little if the individual tried to resell them to get cash for subsistence needs.

C. Exclusion of an Automobile from Resources

Section 1613(a)(2)(A) of the Act provides that, in determining the resources of an individual (and eligible spouse, if any) for SSI purposes, SSA will exclude an automobile to the extent that its value does not exceed an amount that the Commissioner of Social Security decides is reasonable. Current regulations at § 416.1218 define an "automobile" as a passenger car or other vehicle used to provide necessary transportation.

In interpreting "reasonable" value, § 416.1218(b)(1) provides that an automobile is totally excluded regardless of value if it meets any of the four following criteria:

- It is necessary for employment;
- It is necessary for the medical treatment of a specific or regular medical problem;
- It is modified for a handicapped person; or
- It is necessary because of certain factors to perform essential daily activities.

If no automobile can be excluded based on its use, one automobile is excluded to the extent its current market value does not exceed \$4,500. See § 416.1218(b)(2). Additional automobiles are counted as nonliquid resources to the extent of their equity value. See § 416.1218(b)(3).

We propose to amend our rules to exclude one automobile from resources regardless of its value if it is used for transportation for the individual or a member of the individual's household. We are doing so because our data

establish that the vast majority of "first" automobiles owned by SSI recipients are currently excluded based on one of the four transportation criteria set out in § 416.1218(b)(1). In addition, there is no indication that the automobiles which are not covered by the special circumstances represent significant resources. Based on quality assurance data for 1998, in approximately 98 percent of those SSI cases involving automobile ownership, the value of one car was completely excluded. Anecdotal data from SSA claims representatives support the 1998 quality assurance data.

We propose to revise § 416.1210(c) to exclude from resources an automobile that is used for transportation as provided in § 416.1218. We also propose to change § 416.1218(b) to exclude totally one automobile regardless of value if it is used for transportation for the individual or a member of the individual's household and to eliminate the existing four specific reasons for exclusion. We also propose to delete § 416.1218(c), which contains the definition of the current market value of an automobile.

Under current policy, we virtually always exclude one automobile for each individual or couple applying for or receiving SSI. Our aim in proposing to simplify the automobile rules is to achieve essentially the same outcome by automatically excluding one automobile used for transportation for each individual or couple without unnecessary claims development.

The Act states that we will exclude an automobile of "reasonable" value. We have previously interpreted the word "reasonable" in terms of the uses and needs of disabled individuals and in terms of dollar limits. Specifically, the preamble to the final regulation which increased the exclusion of the automobile value to \$4,500 on July 24, 1979 (44 FR 43265) stated that we had "concluded that there are special circumstances which justify entirely excluding an automobile. For example, if the automobile is needed for employment or medical treatment or if it has been modified for use by a handicapped person, we will exclude it without regard to value." Since October 22, 1985 (50 FR 42687), the regulations also provide for total exclusion of an automobile if, due to certain factors, it is necessary for transportation to perform essential daily activities. Our experience shows that virtually all SSI claimants and recipients who have automobiles need them for transportation under the circumstances listed above.

It should be noted that our proposed interpretation of "reasonable" would

not eliminate the requirement to develop the value of second or additional automobiles. Nor will the "first" automobile be excluded if it is not used for transportation. In those cases where a vehicle is inoperable, or operable but not used at all, or used only for recreation (e.g., a dune buggy), it would still be valued according to current rules. We believe it would be unreasonable to exclude from resources the value of a vehicle that is not used for transportation.

The proposed change would have a negligible affect on program costs and would simplify administration of the exclusion. It would eliminate the need for SSA claims representatives to ask the SSI recipient if his/her vehicle meets one of the four specific exclusion criteria or otherwise determine the value of the vehicle.

Clarity of These Regulations

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 rules, we invite your comments on how to make these rules easier to understand. For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that is unclear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rules easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?

Regulatory Procedures

Executive Order 12866, as Amended by Executive Order 13258

The Office of Management and Budget (OMB) has reviewed these proposed rules in accordance with Executive Order 12866, as amended by Executive Order 13258.

Regulatory Flexibility Act

We certify that these proposed regulations would not have a significant economic impact on a substantial number of small entities, because they would 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 regulations would impose no additional reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance Program No. 96.006 Supplemental Security Income)

List of Subjects in 20 CFR Part 416

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

Dated: October 1, 2003.

Jo Anne B. Barnhart,
Commissioner of Social Security.

For the reasons set out in the preamble, we propose to amend subparts K and L of part 416 of chapter III of title 20 of the Code of Federal Regulations as follows:

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

Subpart K—[Amended]

1. 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).

2. Section 416.1102 is revised to read as follows:

§ 416.1102 What is income?

Income is anything you receive in cash or in kind that you can use to meet your needs for food and shelter. Sometimes income also includes more or less than you actually receive (see § 416.1110 and § 416.1123(b)). In-kind income is not cash, but is actually food or shelter, or something you can use to get one of these.

3. Section 416.1103 is amended by revising the heading, the introductory text, paragraphs (a)(3), (a)(4), (a)(5) introductory text, (b)(2), (b)(3) introductory text, the examples in paragraph (g), and the introductory text and example 1 of paragraph (j) to read as follows:

§ 416.1103 What is not income?

Some things you receive are not income because you cannot use them as food or shelter, or use them to obtain food or shelter. In addition, what you receive from the sale or exchange of your own property is not income; it

remains a resource. The following are some items that are not income:

(a) * * *

(3) Assistance provided in cash or in kind (including food or shelter) under a Federal, State, or local government program whose purpose is to provide medical care or medical services (including vocational rehabilitation);

(4) In-kind assistance (except food or shelter) provided under a nongovernmental program whose purpose is to provide medical care or medical services;

(5) Cash provided by any nongovernmental medical care or medical services program or under a health insurance policy (except cash to cover food or shelter) if the cash is either:

* * * * *

(b) * * *

(2) In-kind assistance (except food or shelter) provided under a nongovernmental program whose purpose is to provide social services; or

(3) Cash provided by a nongovernmental social services program (except cash to cover food or shelter) if the cash is either:

* * * * *

(g) * * *

Examples: If your daughter uses her own money to pay the grocer to provide you with food, the payment itself is not your income because you do not receive it. However, because of your daughter's payment, the grocer provides you with food; the food is in-kind income to you. Similarly, if you buy food on credit and your son later pays the bill, the payment to the store is not income to you, but the food is in-kind income to you. In this example, if your son pays for the food in a month after the month of purchase, we will count the in-kind income to you in the month in which he pays the bill. On the other hand, if your brother pays a lawn service to mow your grass, the payment is not income to you because the mowing cannot be used to meet your needs for food or shelter. Therefore, it is not in-kind income as defined in § 416.1102.

* * * * *

(j) *Receipt of certain noncash items.* Any item you receive (except shelter as defined in § 416.1130 or food) which would be an excluded nonliquid resource (as described in subpart L of this part) if you kept it, is not income.

Example 1: A community takes up a collection to buy you a specially equipped van, which is your only vehicle. The value of this gift is not income because the van does not provide you with food or shelter and will become an excluded nonliquid

resource under § 416.1218 in the month following the month of receipt.

* * * * *

§§ 416.1104, 416.1121, 416.1124, 416.1130, 416.1133, 416.1140, 416.1142, 416.1144, 416.1145, 416.1147, 416.1148, 416.1149, 416.1157 [Amended]

4. Remove the words “food, clothing, or shelter” and add, in their place, the words “food or shelter” in the following sections:

- a. Section 416.1104;
- b. Section 416.1121(b) and (h);
- c. Section 416.1124(c)(3);
- d. Section 416.1130(a) and (b);
- e. Section 416.1133(a);
- f. Section 416.1140(a)(1), (a)(2)(i), (a)(2)(ii), (b)(1), and (b)(2);
- g. Section 416.1142(b);
- h. Section 416.1144(b)(2);
- i. Section 416.1145;
- j. Section 416.1147(c) and (d)(1);
- k. Section 416.1148(b)(1) and (b)(2);
- l. Section 416.1149(c)(1)(i) and (c)(1)(ii); and
- m. Section 416.1157(b).

Subpart L—[Amended]

5. The authority citation for subpart L 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).

6. Section 416.1210 is amended by revising paragraphs (b) and (c) to read as follows:

§ 416.1210 Exclusions from resources; general.

* * * * *

(b) Household goods and personal effects as defined in § 416.1216;

(c) An automobile, if used for transportation, as provided in § 416.1218;

* * * * *

7. Section 416.1216 is revised to read as follows:

§ 416.1216 Exclusion of household goods and personal effects.

(a) *Household goods.* (1) We do not count household goods as a resource to an individual (and spouse, if any) if they are:

- (i) Items of personal property, found in or near the home, that are used on a regular basis; or
- (ii) Items needed by the householder for maintenance, use and occupancy of the premises as a home.

(2) Such items include but are not limited to: Furniture, appliances, electronic equipment such as personal computers and television sets, carpets, cooking and eating utensils, and dishes.

(b) *Personal effects.* (1) We do not count personal effects as resources to an individual (and spouse, if any) if they are:

- (i) Items of personal property ordinarily worn or carried by the individual; or
 - (ii) Articles otherwise having an intimate relation to the individual.
- (2) Such items include but are not limited to: Personal jewelry including wedding and engagement rings, personal care items, prosthetic devices, and educational or recreational items such as books or musical instruments. We also do not count as resources items of cultural or religious significance to an individual and items required because of an individual's impairment. However, we do count items that were acquired or are held for their value or as an investment because we do not consider these to be personal effects. Such items can include but are not limited to: Gems, jewelry that is not worn or held for family significance, or collectibles. Such items will be subject to the limits in § 416.1205.

8. Section 416.1218 is amended by revising paragraph (b)(1), removing paragraph (b)(2), revising and redesignating paragraph (b)(3) as (b)(2), and removing paragraph (c) to read as follows:

§ 416.1218 Exclusion of the automobile.

* * * * *

(b) * * *

(1) *Total exclusion.* One automobile is totally excluded regardless of value if it is used for transportation for the individual or a member of the individual's household.

(2) *Other automobiles.* Any other automobiles are considered to be nonliquid resources. Your equity in the other automobiles is counted as a resource. (See § 416.1201(c).)

[FR Doc. 04–60 Filed 1–5–04; 8:45 am]

BILLING CODE 4191–02–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[AL–62–200403; FRL–7607–7]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Alabama; Redesignation of Birmingham Ozone Nonattainment Area to Attainment for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On November 19, 2003, the State of Alabama, through the Alabama Department of Environmental Management (ADEM), submitted a request to redesignate the 1-hour ozone National Ambient Air Quality Standard (NAAQS) nonattainment area of Birmingham, Alabama to attainment, and a request for EPA approval of a draft Alabama State Implementation Plan (SIP) revision containing a 10-year maintenance plan for the Birmingham area. Today, EPA is proposing approval of the 1-hour ozone redesignation request and the draft maintenance plan SIP revision. EPA's proposed approval of the 1-hour ozone redesignation request is based on its determination that the Birmingham, Alabama area has met the five criteria for redesignation to attainment specified in the Clean Air Act, including a demonstration that the area has attained the 1-hour ozone national ambient air quality standard. EPA is parallel processing the draft maintenance plan SIP revision (a required component of any redesignation to attainment) and is proposing approval of this draft maintenance plan because EPA has determined that the draft plan complies with the requirements of section 175A of the Clean Air Act.

Additionally, through this proposed action, EPA is providing the public an opportunity to review and comment on the adequacy of new volatile organic compounds (VOC) and nitrogen oxides (NO_x) motor vehicle emission budgets (MVEBs) for purposes of determining transportation conformity. These new MVEBs are contained within the draft maintenance plan SIP revision for the Birmingham area. If EPA concludes, after reviewing any comments submitted, that Alabama's proposed new NO_x and VOC MVEBs are adequate, and if Alabama submits a final maintenance plan SIP revision with no substantive changes that would affect EPA's adequacy determination, then the new MVEB budgets would be applicable for transportation conformity determinations after the effective date of an EPA adequacy determination (published in the **Federal Register**) or on the date of final rulemaking of an EPA approval of Alabama's maintenance plan SIP revision if EPA chooses to make its final adequacy determination in that maintenance plan final rulemaking notice.

DATES: Written comments must be received on or before February 5, 2004.

ADDRESSES: Comments may be submitted by mail to: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and