

handlers in the Greater Louisiana marketing area for a supply of milk.

#### List of Subjects in 7 CFR Part 1096

Milk marketing orders.

The authority citation for 7 CFR Part 1096 continues to read as follows:

**Authority:** Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

**Dated:** October 15, 1993.

**Kenneth C. Clayton,**  
*Acting Administrator.*

[FR Doc. 93-25981 Filed 10-21-93; 8:45 am]

BILLING CODE 3410-02-P

### NUCLEAR REGULATORY COMMISSION

#### 10 CFR Parts 20, 21, 30, 31, 32, 35, 40 and 61

#### Meeting to Discuss Upcoming Regulations and Revisions

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of meeting.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) staff plans to convene a public meeting with representatives of Agreement States to discuss the provisions of proposed revisions of its regulations in several different areas. The revisions are needed to clarify and enhance certain requirements designed to protect the safety of the public and radiation workers. The revisions are also needed to clarify some existing definitions and to incorporate additional definitions in order to bring NRC regulations more in line with regulations used by other organizations that regulate similar byproduct and source material.

**DATES:** The public meeting will be held on Monday, October 25, 1993 from 8 a.m. to 12 noon.

**ADDRESSES:** The meeting is to be held at the Fiesta Inn, 2100 South Priest Drive, Tempe, Arizona, Telephone (1-800-528-6481).

**FOR FURTHER INFORMATION CONTACT:** Lloyd A. Bolling, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 504-2327.

**SUPPLEMENTARY INFORMATION:** the regulations in 10 CFR part 21 address the reporting of Defects and Non-Compliance. The recent comprehensive revision of 10 CFR part 21 incorporates requirements for materials licensees of the NRC and the Agreement States. The regulations in 10 CFR part 20 regarding the Clean Air Act will be discussed. A proposed rulemaking regarding 10 CFR

parts 20 and 35 will clarify the requirements for Unintended Radiation Exposures to an Embryo, Fetus or Breast Fed Child. Revisions 10 CFR parts 30, 40, and 70, Decommissioning Funding will require facilities to be decontaminated and decommissioned with licensee controlled funds. Revisions to 10 CFR part 40 will clarify numerous definitions, exemptions and general licenses for many source material facilities. Revisions to 10 CFR parts 30, 40, and 70 will establish a low-level waste shipment manifest information and reporting system. Further revisions to 10 CFR parts 30, 40, and 70 will address Financial Assurance for Institutional Control at Low-Level Waste Sites. The addition of land ownership requirements for low-level waste sites in 10 CFR part 61 will be discussed.

The workshop will be chaired by Mr. Richard L. Bangart, Director, Office of State Programs, U.S. Nuclear Regulatory Commission. The public meeting will be conducted in a manner that will expedite the orderly conduct of business. A transcript of the public meeting will be available for inspection and copying for a fee, at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555 on or about November 15, 1993.

The following procedures apply to public attendance at the workshop:

1. Questions or statements from attendees other than participants, i.e., participating representatives of each Agreement State and participating NRC staff will be entertained as time permits; and
2. Seating for the public will be on a first-come, first-served basis.

Dated at Rockville, Maryland this 18th day of October, 1993.

For the Nuclear Regulatory Commission.

**Richard L. Bangart,**

*Director, Office of State Programs.*

[FR Doc. 93-26031 Filed 10-21-93; 8:45 am]

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### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Part 73

[Airspace Docket No. 93-ASW-6]

#### Proposed Change of Time of Designation to Restricted Areas R-6302C and D, Fort Hood; TX

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This proposed rule would amend the time of designation for Restricted Areas R-6302C and R-6302D, Fort Hood, TX, to more accurately reflect current user requirements for the airspace. This action is proposed as a result of a Special Use Airspace Review conducted by the FAA at Fort Hood, TX, in May 1993.

**DATES:** Comments must be received on or before December 8, 1993.

**ADDRESSES:** Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASW-500, Docket No. 93-ASW-6, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX 76193-0500.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

**FOR FURTHER INFORMATION CONTACT:** Steve Riley, Military Operations Program Office (ATM-420), Office of Air Traffic System Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-7130.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made:

"Comments to Airspace Docket No. 93-ASW-6." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light

of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

#### Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

#### The Proposal

The FAA is considering an amendment to part 73 of the Federal Aviation Regulations (14 CFR part 73) to amend the time of designation of Restricted Area R-6302C and R-6302D at Fort Hood, TX. In May 1993, the FAA conducted an on-site evaluation of the special use airspace at Fort Hood, TX. The review team concluded that the published time of designation for R-6302C and R-6302D should be amended to more accurately reflect current user requirements. As proposed, the time of designation for R-6302C would be changed from the current "By NOTAM 2 hours in advance" to more specific times "0700-1900 local time, Monday-Friday; other times by NOTAM." This change would more clearly indicate the primary hours of use for the restricted area, while retaining the provision to activate the restricted area on a "By NOTAM" basis when required. In addition, the time of designation for R-6302D would be changed from "0600-2100 local time, daily; other times by NOTAM" to "0700-1900 local time, Monday-Friday; other times by NOTAM." This would result in a reduction by 21 hours per week from the currently published basic time of designation for R-6302D, while retaining the provision to activate R-6302D "By NOTAM" when necessary. These changes would enhance airspace management, and more clearly indicate to the public the times when the restricted areas may be expected to be in use for military purposes. This proposal would not alter the dimensions of, or activities conducted within, R-6302C and R-6302D. Section 73.63 or

part 73 of the Federal Aviation Regulations was republished in FAA Order 7400.8A dated March 3, 1993.

#### Environmental Review

This proposed action will be reviewed for environmental impact prior to an FAA decision on the matter.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

#### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

#### PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

**Authority:** 49 U.S.C. app. 1348(a), 1354(a), 1510, 1522; E.O. 10854; 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

#### § 73.63 [Amended]

##### R-6302C Fort Hood, TX [Amended]

By removing the words "By NOTAM 2 hours in advance" and substituting the words "0700-1900 local time, Monday-Friday; other times by NOTAM."

##### R-6302D Fort Hood, TX [Amended]

By removing the words "0600-2100 local time, daily; other times by NOTAM" and substituting the words "0700-1900 local time, Monday-Friday; other times by NOTAM."

Issued in Washington, DC, on October 13, 1993.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 93-26063 Filed 10-21-93; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Social Security Administration

#### 20 CFR Parts 404 and 416

[Regulations Nos. 4 and 16]

RIN 0960-AD63

#### Testing Modifications to the Disability Determination Procedures

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rules.

**SUMMARY:** We propose to add new rules which would establish authority to test models that modify the disability determination procedures we follow under titles II and XVI of the Social Security Act (the Act). These models will provide us with information so we can determine their effectiveness in improving the disability process. The intended result is to enable us to make recommendations for national implementation of improvements identified by the tests. These proposed regulations only refer to the changes to the disability procedures we may test. Unless specified, all other regulations related to the disability determination procedures remain unchanged.

**DATES:** To be sure that your comments are considered, we must receive them no later than November 22, 1993.

**ADDRESSES:** Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, MD 21235, or delivered to 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8 a.m. and 4:30 p.m. on regular business days. Alternatively, you may submit comments by telefax to (410) 966-0869. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

**FOR FURTHER INFORMATION CONTACT:** Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (410) 965-1762.

#### SUPPLEMENTARY INFORMATION:

##### Background

We are proposing to establish the authority to test model projects designed to improve the initial disability determination process. These models will test, on a limited basis, the effect of: having disability specialists in field offices of the Social Security Administration (SSA) request and

evaluate medical evidence before sending the claim to the State agency; expanding the authority of the disability specialist in SSA field offices to make presumptive disability findings in claims for supplemental security income (SSI) benefits based on disability under title XVI; providing a claimant with an opportunity for a face-to-face interview with a decisionmaker earlier in the disability adjudication process; giving the decisionmaker authority to make initial or reconsideration determinations without requiring the medical consultant to sign the disability determination; having the reconsideration determination made by a Federal disability reconsideration officer who will schedule a face-to-face interview with the claimant when a reconsideration determination is requested; and eliminating the reconsideration step from the administrative review process in claims for Social Security or SSI based on disability.

In recent years, various studies have been conducted on how to improve the disability determination process. One such project was the personal appearance demonstration (PAD) project, which we conducted pursuant to section 6 of Public Law (Pub. L.) 98-460, the Social Security Disability Benefits Reform Act of 1984. Although we were not able to gain statistically valid results from that project, we did gain valuable operating knowledge and experience. Specifically, we learned from the PAD that we need to monitor more closely and follow up more closely on the operations in the field offices and State agencies so that the study or test outcomes and results will be valid and reliable. By doing this in connection with the proposed models, we will be able to choose the best processes for making disability determinations and recommend specific changes on a national basis.

The models described below are designed to test enhancement of our current goals which are to:

- Provide assistance to the disability applicant by making the filing of a disability claim simpler, more responsive and more compassionate;
- Promote fairness in each disability determination by ensuring that each disability applicant is given an opportunity to provide all the necessary information to complete the claim and is aware of his/her rights under the program; and
- Ensure that the Agency's determination is both inclusive and equitable.

We expect the number of disability claims will increase in the next few

years independent of the models discussed below. We do not know whether this increase will be permanent or temporary. We will continue to closely monitor the workload situation and take appropriate management action as necessary.

For the long term, we want to obtain information about alternatives to our current procedures to see if they enable us to have better decisionmaking earlier in the process.

The five models described in the proposed rules are designed to test modifications to certain aspects of the disability determination process both before and after the initial determination. We are affording the public an opportunity to comment on them, and before issuing final rules on the testing of any of the proposed models, we will give full consideration to all of the significant comments we receive.

#### Provisions of the Regulations

In the proposed regulations, we describe five models which would modify the disability determination procedures we follow under titles II and XVI of the Act. The disability process models that we test may be conducted in as many as five States. The individuals who participate in the tests will be randomly assigned to a test group or control group in each site where the test are conducted.

The first model, the disability specialist model, would measure the effects of having disability specialists in SSA field offices request and evaluate existing medical evidence. Disability specialists are claims representatives in our field offices who would be given special disability program training similar to the training that State agency disability examiners receive. They would review the claim before it is sent to the State agency, request and evaluate existing medical evidence and, if appropriate, arrange for a consultative examination. With respect to applications for SSI benefits based on disability, they would, where appropriate, make presumptive disability findings based on the authority existing in §§ 416.933 and 416.934, without the limitations imposed by Social Security Ruling (SSR) 80-36.

The second model, the claims intake and determination model, would measure the effects of having the applicant interviewed by a decisionmaker when a claim for disability benefits is filed. The decisionmaker would have the authority to make the initial disability determination. Medical consultants

would assist the decisionmaker and would be available for consultation throughout this process. The applicant would be offered the opportunity to have the interview conducted face-to-face. The decisionmaker may either be a State agency disability examiner or a Federal employee. Videoconferencing may be used in some instances, in one or more sites, to conduct face-to-face interviews in this model.

The third model, the face-to-face predenial interview model, would measure the effects of having a State agency provide an applicant with the opportunity for a face-to-face interview before an initial determination denying the claim is made. If the applicant requests the interview, it would be conducted by a State agency disability examiner who would make the initial disability determination. Medical consultants would assist the disability examiner and would be available for consultation throughout this process. In addition, videoconferencing may be used in some instances in one or more sites to conduct the face-to-face interview.

The fourth model, the face-to-face reconsideration model, would measure the effects of having a face-to-face interview conducted by a Federal disability reconsideration officer who would make the reconsideration determination.

The fifth model, the reconsideration elimination model, would measure the effects of eliminating the reconsideration step of the administrative review process. The outcomes of the tests we conduct would be measured from intake through the administrative law judge (ALJ) hearing in the current administrative review process. The proposed regulations describe the models and explain the procedures and a claimant's rights in connection with the face-to-face interview conducted under the third and fourth models.

#### Existing Procedures

Under our existing procedures, the claimant often talks in person to an SSA field office employee when the claim for benefits is filed. The field office employee prepares the necessary claims intake forms and records observations about the claimant. Currently, field office employees are not trained to read and evaluate medical reports. Although field office employees review applications for SSI benefits based on disability and make presumptive disability and presumptive blindness findings, they make such findings only in the situations set out in § 416.934 of our regulations, SSR 80-36 and

§ 416.933 of our regulations insofar as it involves SSI claims based on an infection with the human immunodeficiency virus (See 58 FR 36059 (July 2, 1993)). The field office employee also sends the claims information and evidence provided by the claimant to the State agency.

Under existing procedures, an initial determination as to whether a claimant is disabled is made by a State agency on the basis of the evidence in the claimant's case file. This evidence may include, but is not limited to, written medical reports and observations of the claimant prepared by an SSA employee at the field office when the claim is filed. The claimant can give us, or we can obtain, information such as reports from doctors, hospitals, employers or others that would be pertinent to the disability determination.

The initial determination of whether a person is disabled under title II or title XVI is made by a State agency under sections 221 and 1633 of the Act and the regulations at 20 CFR part 404, subpart Q, and part 416, subpart J. The State agency decisionmaking team consists of a disability examiner who is not a physician, and a medical consultant who is a physician or psychologist. The disability examiner is qualified to interpret and evaluate medical reports and other evidence relating to a person's physical and mental impairments, and, as necessary, to determine the claimant's capacity for performing substantial gainful activity, as defined in §§ 404.1572 and 416.972. The State agency has the authority to make a presumptive disability or presumptive blindness finding in any SSI case in which the evidence, though not sufficient to make a formal determination of disability or blindness, is sufficient to find there is a high degree of probability that the claimant is disabled or blind.

The State agency disability examiner evaluates the available evidence in the claimant's case file and obtains any additional evidence necessary, including medical evidence from the claimant's own sources, reports from the physicians who examined the claimant at the State agency's request and non-medical evidence. The State agency decisionmaking team then makes the initial determination with the disability examiner and medical consultant being co-decisionmakers. When the State agency makes the initial determination about the claimant's entitlement to or eligibility for benefits, a notice is sent to the claimant to inform him or her of the determination. The notice includes information about the claimant's appeal rights. The claimant may appeal by

requesting a reconsideration determination.

Reconsideration is the first step in the administrative review process. It consists of a review by a disability examiner and medical consultant who were not the decisionmakers who made the initial determination. The reconsideration determination is based on all the evidence in the case file and any new evidence submitted. When the reconsideration determination is made, the claimant is notified of the determination. The notice advises the claimant that if he or she is dissatisfied with the determination, he or she may request a hearing before an ALJ. At the hearing, the claimant is given the opportunity to testify about his or her medical condition, submit additional evidence, and introduce witnesses, if any, on his or her own behalf. Following the decision, the claimant may request Appeals Council review, if he or she disagrees with the hearing decision.

#### *Tests of Modifications to the Disability Determination Procedures*

The first model, the disability specialist model, is designed to test whether the claims intake process would be improved by giving selected SSA field office personnel more authority to obtain and evaluate more medical evidence and, in SSI cases, to make presumptive disability findings. This model is intended to allow us to see if giving the State agency this additional information would improve our overall processing times.

The field office personnel who would participate in a test of this model would be specially trained as disability specialists. The training would enable them to request and evaluate the claimant's medical records, and, if appropriate, arrange for a consultative examination. Another result of this training would be to give the disability specialists the ability to make a presumptive disability or presumptive blindness finding in a greater number of SSI cases.

The second model, the claims intake and determination model, would measure the effects of having the applicant interviewed by a decisionmaker when a claim for disability benefits is filed. Physicians and psychologists (medical consultants) would be available for consultation with the decisionmaker, but the decisionmaker would have authority to request, review, and evaluate evidence and make the disability determination without having the medical consultant sign the disability determination forms. The applicant would be offered the opportunity to have the interview

conducted face-to-face. The decisionmaker may either be a State agency disability examiner or a Federal employee. Videoconferencing may be used in some instances, in one or more sites, to conduct face-to-face interviews in this model.

The third model, the face-to-face predenial interview model, is designed to test the effect of face-to-face predenial interviews conducted by State agency disability examiners. In this model, prior to releasing the initial determination denying the claim, the State agency would notify the claimant that he or she has the opportunity for a face-to-face interview with the State agency disability examiner. A notice would be mailed to the claimant at least 20 days before the date of the interview unless the claimant waives (in writing) his/her right to the 20-day advance notice. In this model, the claimant should not waive his/her right to the 20-day advance notice if the claimant needs time to get ready for the interview. If the claimant does waive his/her right to the 20-day advance notice, an interview would be scheduled for the claimant as soon as possible and a notice of the time and place of the interview would be mailed to the claimant. In this instance, the notice would be mailed at least 10 days before the date of the interview. In this model, claimants who waive the right to appear at the face-to-face interview, or do not appear for a scheduled interview, and do not submit additional evidence, or do not respond within a specified period to our attempts to communicate with them, would receive an initial determination denying their claim and notice that they may appeal to an ALJ. If a claimant shows that there was good cause for failing to take one of these actions, we would provide another opportunity for a face-to-face interview. At any time in the process when a determination fully favorable to a claimant can be made, it would be. Physicians or psychologists (medical consultants) would be available for consultations with the disability examiner both before and after the face-to-face interview. Since the physician/psychologist involvement would be as a consultant, the State agency disability examiner would make the initial determination after the interview without having the medical consultant sign the disability determination form.

The fourth model, the face-to-face Federal reconsideration model, would test whether the disability process is improved by a face-to-face reconsideration interview between the claimant and a Federal decisionmaker. In response to a claimant's request for

reconsideration of a less than fully favorable initial disability determination, we would schedule a face-to-face interview for the claimant with a Federal disability reconsideration officer who would make the reconsideration determination. The Federal disability reconsideration officer would consult with a medical consultant when it is necessary before making the reconsideration determination.

Prior to the date of the face-to-face interview with the claimant, the Federal disability reconsideration officer would review the file. If this review results in the need for additional information, it would be requested before the face-to-face interview is to occur. If the claimant submits additional evidence prior to the date of the interview, it would also be considered. If the review indicates that a fully favorable determination can be made it would be made and the interview would be canceled. Otherwise, a face-to-face interview would remain scheduled. The claimant would be mailed a notice of the time and place of the interview at least 20 days before the date of the interview unless the claimant waives (in writing) his/her right to the 20-day advance notice. In this model, the claimant should not waive his/her right to the 20-day advance notice if the claimant needs time to get ready for the interview. If the claimant does waive his/her right to the 20-day advance notice, an interview would be scheduled for the claimant as soon as possible and a notice of the time and place of the interview would be mailed to the claimant. In this instance, the notice would be mailed at least 10 days before the date of the interview. If the claimant is unable to travel or has some other reason why he or she cannot attend the interview, the Federal disability reconsideration officer would change the time or place if there is good cause under the standards in § 404.936 (c) and (d) or § 416.1436 (c) and (d), as appropriate.

Claimants may waive the right to appear for the face-to-face interview. If the claimant does not appear at the interview, the Federal disability reconsideration officer would prepare and issue a reconsidered determination based on the information in the case file. If the claimant submits additional evidence, even though he or she waives the face-to-face interview, that evidence would be considered by the Federal disability reconsideration officer when he or she makes the reconsidered determination. Written notice of the determination would be sent to the

claimant with a copy of the determination.

In both the third and fourth models, the claimant would have the opportunity to waive our advance notice of the interview date and the right to request reimbursement for travel if the distance travelled to the interview site exceeds 75 miles.

The fifth model, the reconsideration elimination model, is designed to test whether the disability process is improved by the elimination of the reconsideration step. If a claimant is not satisfied with the initial determination, he or she may request a hearing before an ALJ. The procedures we currently follow when review by an ALJ is requested would be followed in this model.

### Regulatory Procedures

#### Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because these regulations do not meet any of the threshold criteria for a major rule. Therefore, a regulatory impact analysis is not required.

#### Paperwork Reduction Act

Data collection involved in the evaluation of any of the models would necessitate new reporting or recordkeeping requirements which would need clearance by the Office of Management and Budget (OMB). These requirements are still being developed. When specifics have been determined, a request for clearance will be forwarded to OMB as required by the Paperwork Reduction Act of 1980.

#### Regulatory Flexibility Act

We certify that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities because they affect individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96-354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program Nos. 93.802, Social Security-Disability Insurance; 93.807, Supplemental Security Income)

### List of Subjects

#### 20 CFR Part 404

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

#### 20 CFR Part 416

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

Lawrence H. Thompson,

Principal Deputy Commissioner of Social Security.

Approved: September 2, 1993.

Donna E. Shalala,

Secretary of Health and Human Services.

For the reasons set out in the preamble, parts 404 and 416 of chapter III of title 20 of the Code of Federal Regulations are amended as set forth below.

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

1. The authority citation for 20 CFR part 404, subpart J, continues to read as follows:

**Authority:** Secs. 201(j), 205(a), (b), (d)–(h), and (j), 221(d), and 1102 of the Social Security Act; 42 U.S.C. 401(j), 405(a), (b), (d)–(h), and (j), 421(d), and 1302.

2. Section 404.906 is revised to read as follows:

#### § 404.906 Testing modifications to the disability determination procedures.

(a) *Applicability and scope.* Notwithstanding any other provision in this part or part 422, we are establishing the procedures set out in this section to test modifications to our disability determination process. These modifications will enable us to test either individually or in one or more combinations, the effect of: Having disability specialists in our field offices request and evaluate medical evidence before it is forwarded to the State agency; providing persons who have applied for benefits based on disability with the opportunity for a face-to-face interview with a decisionmaker earlier in the disability determination process; having a single decisionmaker make initial or reconsideration determinations in those claims; having the disability reconsideration determination made by a Federal disability reconsideration officer who will schedule a face-to-face interview with the claimant; and having a claimant who is dissatisfied with the initial determination request a hearing before an administrative law judge rather than a reconsideration determination. The models which we test will be designed to provide us with current information regarding the effect of the procedural modifications we test and enable us to decide whether and to

what degree the disability determination process would be improved, if they were implemented on a national level.

(b) *Procedures for cases included in the tests.* The individuals who participate in the tests will be selected randomly and assigned to a test group or control group in each test State. The disability specialist model and the claims intake and determination model are described in paragraphs (b) (1) and (2) of this section, respectively. The other three models are described in paragraphs (b) (3), (4) and (5) of this section. We may test the models described in this section separately, or we may test either of the models described in paragraphs (b) (1) or (2) in conjunction with one or more of the models described in paragraphs (b) (3), (4), or (5) of this section.

(1) In the disability specialist model, the initial claims intake process will be modified by having specially trained SSA field office personnel review the claim before forwarding it to the State agency. These field office personnel will be specially trained as disability specialists. They will request and evaluate existing medical evidence, and if appropriate, arrange for a consultative examination.

(2) In the claims intake and determination model, when you file a claim for disability benefits, you will be interviewed by a decisionmaker who has the authority to assess your residual functional capacity and to make the determination of disability. Physicians and psychologists (medical consultants) will be available for consultation with the decisionmaker. Although the medical consultant will be available for consultation after the interview, the decisionmaker will have authority to make the disability determination without having the medical consultant sign the disability determination forms. You will be offered the opportunity for your interview to be conducted face-to-face. In some instances, in one or more sites, videoconferencing may be used to conduct face-to-face interviews in this model. The decisionmaker who interviews you may either be a State agency disability examiner or a Federal employee. The decisionmaker will be able to request, review, and evaluate all evidence necessary to make a determination of disability.

(3) In the face-to-face predenial interview model, we will modify the initial determination process. If you are selected to participate in a test of this model, we will provide you with the opportunity to have a face-to-face interview with a State agency disability examiner before the State agency makes an initial determination denying your

claim. If the disability examiner finds that the evidence in your file requires an initial determination denying your claim, the State agency will mail a written notice to you. The notice will tell you that, before the State agency makes a formal determination about whether you are disabled, you may have an interview with the State agency disability examiner. You must request an interview within 30 days after the date you receive the notice. If you make a late request for an interview but show in writing that you had good cause under the standards in § 404.911 for missing the deadline, the disability examiner will extend the deadline. This notice will also explain that we will notify you of the date of the interview at least 20 days before the date of the interview unless you waive (in writing) your right to the advance notice. You should not waive your right to the 20-day advance notice if you need time to get ready for the interview. If you do waive your right to the 20-day advance notice, an interview will be scheduled for you as soon as possible and a notice of the time and place of your interview will be mailed to you. In this instance, the notice will be mailed to you at least 10 days before the date of the interview. If you waive your right to appear for the face-to-face interview or if you do not appear for a scheduled interview and do not submit additional evidence, or if you do not respond before the date of the interview to our attempts to communicate with you, you will receive an initial determination. A written notice of that determination will be mailed to you and will state the reasons for the determination and its effect, and will inform you of your right to a hearing before an administrative law judge. If you request an interview, the disability examiner will mail a notice to you informing you of the time and place of your interview. The notice will be mailed to you at least 20 days before the date of the interview, unless you have waived (in writing) your right to the 20-day advance notice. At any time in the process when a fully favorable determination can be made, it will be. Physicians and psychologists (medical consultants) will be available for consultation with the disability examiner. Although the medical consultant will also be available for consultation after the face-to-face predenial interview, the State agency disability examiner will have authority to make the initial disability determination without having the medical consultant sign the disability determination on the forms we provide to the State agency (see § 404.1615). The

State agency disability examiner will also have the authority to assess your residual functional capacity. If you are unable to travel or have some other reason why you cannot attend your interview at the scheduled time or place, you should request at the earliest possible date before the date of the interview that the time or place be changed. The disability examiner will change the time or place if there is good cause for doing so under the standards in § 404.936 (c) and (d). If you attend the interview, or if you do not attend the interview but you submit additional evidence, the State agency disability examiner will make an initial determination based on the evidence in your file, including the evidence obtained at the interview, or any additional evidence you submit. If your initial determination is less than fully favorable following the interview and/or after you submit additional evidence, you will be notified that you may request a hearing before an administrative law judge if the issue you want reviewed is based on the medical factors involved in the initial determination. In some instances, in one or more sites, videoconferencing may be used to conduct face-to-face interviews in this model.

(i) *Your rights.* In connection with your interview—

(A) You may request that we or the State agency assist you in obtaining pertinent evidence about your disability;

(B) You may have a representative, appointed under subpart R of this part, at your interview, or you may represent yourself;

(C) You or your representative may review the evidence in your case file, either on the date of your interview or at an earlier time at your request;

(D) You or your representative may present additional evidence and bring witnesses to support your case at your interview; and

(E) You, your representative, and your witnesses may be eligible for reimbursement of travel expenses under §§ 404.999a through 404.999d incurred in connection with your interview if the distance from the person's residence or office (whichever he or she travels from) to the interview site exceeds 75 miles.

(ii) [Reserved]

(4) In the face-to-face Federal reconsideration model, we will modify the reconsideration step of review by scheduling individuals selected to participate in the model for a face-to-face interview with a Federal decisionmaker, called a Federal disability reconsideration officer. In response to your request for

reconsideration of a less than fully favorable initial disability determination (see § 404.907), we will schedule a face-to-face interview for you with a Federal disability reconsideration officer. We will notify you that you will be notified of the date of the interview at least 20 days before the interview unless you waive (in writing) your right to advance notice. You should not waive your right to the 20-day advance notice if you need time to get ready for the interview. If you do waive your right to the 20-day advance notice, an interview will be scheduled for you as soon as possible and a notice of the time and place of your interview will be mailed to you. In this instance, the notice will be mailed to you at least 10 days before the date of the interview. You may also waive your right to appear at the interview. If you waive your right to appear at the interview, or if you do not appear at the interview, the Federal disability reconsideration officer will make a reconsidered determination based on the evidence in your case file. The Federal disability reconsideration officer will have the authority to make the disability determination without having the medical consultant sign the disability determination form. The Federal disability reconsideration officer will also have the authority to assess your residual functional capacity. Physicians and psychologists (medical consultants) will be available for consultation with the Federal disability reconsideration officer. Prior to the date of your face-to-face interview, the Federal disability reconsideration officer will review your file. If you have submitted additional evidence, it will be considered. If this review results in the need for additional information, it will be requested before the face-to-face interview is to occur. If the additional information is received prior to the date of the interview, it will, as soon as possible, be reviewed with the other information in your file by the Federal disability reconsideration officer. If a fully favorable determination can be made at that time, it will be made, the scheduled interview will be canceled, and you will be so notified. If a fully favorable determination cannot be made, the face-to-face interview will not be canceled. If you are unable to travel or have some other reason why you cannot attend your interview at the scheduled time or place, you should request at the earliest possible date before the date of the interview that the time or place be changed. The Federal disability reconsideration officer will change the time or place if there is good cause for doing so under the standards

in § 404.936 (c) and (d). If you attend the interview, the Federal disability reconsideration officer will make a reconsideration determination based on the evidence in your file, including evidence obtained at the interview or any additional evidence you submit or we requested prior to the interview.

(i) *Your rights.* In connection with your interview—

(A) You may request that we assist you in obtaining pertinent evidence about your disability;

(B) You may have a representative, appointed under subpart R of this part, at your interview, or you may represent yourself;

(C) You or your representative may review the evidence in your case file, either on the date of your interview or at an earlier time at your request;

(D) You or your representative may present additional evidence and bring witnesses to support your case at your interview; and

(E) You, your representative, and your witnesses may be eligible for reimbursement of travel expenses under §§ 404.999a–404.999d incurred in connection with your interview if the distance from the person's residence or office (whichever he or she travels from) to the interview site exceeds 75 miles.

(ii) (Reserved)

(5) In the reconsideration elimination model, we will modify the initial disability determination process by eliminating the reconsideration step of the administrative review process. If you receive an initial disability determination that is less than fully favorable, you will be notified that you may request a hearing before an administrative law judge. If you request a hearing before an administrative law judge, we will apply our usual procedures contained in subpart J of this part.

(c) *Authority and purpose.* Any tests we conduct will be under the authority given the Secretary by sections 205(a) and 1102 of the Act to promulgate reasonable and proper rules and regulations and to establish appropriate procedures for administering the Social Security program. The purpose of the tests of any of the models described above is to enable SSA to make recommendations for national implementation of improvements to the disability process.

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

1. The authority citation for 20 CFR part 416, subpart N continues to read as follows:

**Authority:** Secs. 1102, 1631, and 1633 of the Social Security Act; 42 U.S.C. 1302, 1383, and 1383b; sec. 6 of Pub. L. 98–460, 98 Stat. 1802.

2. Section 416.1406 is revised to read as follows:

#### **§ 416.1406 Testing modifications to the disability determination procedures.**

##### *(a) Applicability and scope.*

Notwithstanding any other provision in this part or part 422, we are establishing the procedures set out in this section to test modifications to our disability determination process. These modifications will enable us to test either individually or in one or more combinations, the effect of: Having disability specialists in our field offices request and evaluate medical evidence before it is forwarded to the State agency and make presumptive disability or presumptive blindness findings pursuant to §§ 416.933 and 416.934, without the limitations in Social Security Ruling (SSR) 80–36; providing persons who have applied for benefits based on disability with the opportunity for a face-to-face interview with a decisionmaker earlier in the disability determination process; having a single decisionmaker make initial or reconsideration determinations in those claims; having the disability reconsideration determination made by a Federal disability reconsideration officer who will conduct a face-to-face interview with the claimant; and having a claimant who is dissatisfied with the initial determination request a hearing before an administrative law judge rather than a reconsideration determination. The models we test will be designed to provide us with current information regarding the effect of the procedural modifications we test and enable us to decide whether and to what degree the disability determination process would be improved, if they were implemented on a national level.

(b) *Procedures for cases included in the tests.* The individuals who participate in the tests will be selected randomly and assigned to a test group or control group in each State. The disability specialist model and the claims intake and determination model are described in paragraphs (b) (1) and (2) of this section, respectively. The other three models are described in paragraphs (b) (3), (4) and (5) of this section. We may test the models described in this section separately, or we may test either of the models described in paragraphs (b) (1) or (2) in conjunction with one or more of the models described in paragraphs (b) (3), (4), or (5) of this section.

(1) In the disability specialist model, the initial claims intake process will be modified by having specially trained SSA field office personnel review the claim before forwarding it to the State agency. These field office personnel will be specially trained as disability specialists. They will request and evaluate existing medical evidence, and if appropriate, arrange for a consultative examination. They will also make a presumptive disability or presumptive blindness finding pursuant to §§ 416.933 and 416.934, without the limitations imposed by SSR 80-36.

(2) In the claims intake and determination model, when you file a claim for SSI payments based on disability, you will be interviewed by a decisionmaker who has the authority to assess your residual functional capacity and to make the determination of disability. Physicians and psychologists (medical consultants) will be available for consultation with the decisionmaker. Although the medical consultant will be available for consultation after the interview, the decisionmaker will have authority to make the disability determination without having the medical consultant sign the disability determination forms. You will be offered the opportunity for your interview to be conducted face-to-face. In some instances, in one or more sites, videoconferencing may be used to conduct face-to-face interviews in this model. The decisionmaker who interviews you may either be a State agency disability examiner or a Federal employee. The decisionmaker will be able to request, review, and evaluate all evidence necessary to make a determination of disability.

(3) In the face-to-face predenial interview model, we will modify the initial determination process. If you are selected to participate in a test of this model, we will provide you with the opportunity to have a face-to-face interview with a State agency disability examiner before the State agency makes an initial determination denying your claim. If the disability examiner finds that the evidence in your file requires an initial determination denying your claim, the State agency will mail a written notice to you. The notice will tell you that before the State agency makes a formal determination about whether you are disabled, you may have an interview with the State agency disability examiner. You must request an interview within 30 days after the date you receive the notice. If you make a late request for an interview but show in writing that you had good cause under the standards in § 416.1411 for missing the deadline, the disability

examiner will extend the deadline. This notice will also explain that we will notify you of the date of the interview at least 20 days before the date of the interview unless you waive (in writing) your right to the advance notice. You should not waive your right to the 20-day advance notice if you need time to get ready for the interview. If you do waive your right to the 20-day advance notice, an interview will be scheduled for you as soon as possible and a notice of the time and place of your interview will be mailed to you. In this instance, the notice will be mailed to you at least 10 days before the date of the interview. If you waive your right to appear for the face-to-face interview or if you do not appear for a scheduled interview and do not submit additional evidence, or if you do not respond before the date of the interview to our attempts to communicate with you, you will receive an initial determination. A written notice of that determination will be mailed to you and will state the reasons for the determination and its effect, and will inform you of your right to a hearing before an administrative law judge. If you request an interview, the disability examiner will mail a notice to you informing you of the time and place of your interview. The notice will be mailed to you at least 20 days before the date of the interview, unless you have waived (in writing) your right to the 20-day advance notice. At any time in the process when a fully favorable determination can be made, it will be. Physicians and psychologists (medical consultants) will be available for consultation with the disability examiner. Although the medical consultant will also be available for consultation after the face-to-face predenial interview, the State agency disability examiner will have authority to make the initial disability determination without having the medical consultant sign the disability determination forms we provide to the State agency (see § 416.1015). The State agency disability examiner will also have the authority to assess your residual functional capacity. If you are unable to travel or have some other reason why you cannot attend your interview at the scheduled time or place, you should request at the earliest possible date before the date of the interview that the time or place be changed. The disability examiner will change the time or place if there is good cause for doing so under the standards in § 416.1436 (c) and (d). If you attend the interview, or if you do not attend the interview but you submit additional evidence, the State agency disability

examiner will make an initial determination based on the evidence in your file, including the evidence obtained at the interview, or any additional evidence you submit. If your initial determination is less than fully favorable following the interview and/or after you submit additional evidence, you will be notified that you may request a hearing before an administrative law judge if the issue you want reviewed is based on the medical factors involved in the initial determination. In some instances, in one or more sites, videoconferencing may be used to conduct face-to-face interviews in this model.

(i) *Your rights.* In connection with your interview—

(A) You may request that we or the State agency assist you in obtaining pertinent evidence about your disability;

(B) You may have a representative, appointed under subpart O of this part, at your interview, or you may represent yourself;

(C) You or your representative may review the evidence in your case file, either on the date of your interview or at an earlier time at your request;

(D) You or your representative may present additional evidence and bring witnesses to support your case at your interview; and

(E) You, your representative, and your witnesses may be eligible for reimbursement of travel expenses under §§ 416.1495 through 416.1499 incurred in connection with your interview if the distance from the person's residence or office (whichever he or she travels from) to the interview site exceeds 75 miles.

(ii) [Reserved]

(4) In the face-to-face Federal reconsideration model, we will modify the reconsideration step of review by scheduling individuals selected to participate in the model for a face-to-face interview with a Federal decisionmaker, called a Federal disability reconsideration officer. In response to your request for reconsideration of a less than fully favorable initial disability determination (see § 416.1407), we will schedule a face-to-face interview for you with a Federal disability reconsideration officer. We will notify you that you will be notified of the date of the interview at least 20 days before the interview unless you waive (in writing) your right to advance notice. You should not waive your right to the 20-day advance notice if you need time to get ready for the interview. If you do waive your right to the 20-day advance notice, an interview will be scheduled for you as soon as possible and a notice of the time

and place of your interview will be mailed to you. In this instance, the notice will be mailed to you at least 10 days before the date of the interview. You may also waive your right to appear at the interview. If you waive your right to appear at the interview, or if you do not appear at the interview, the Federal disability reconsideration officer will make a reconsidered determination based on the evidence in your case file. The Federal disability reconsideration officer will have the authority to make the disability determination without having the medical consultant sign the disability determination form. The Federal disability reconsideration officer will also have the authority to assess your residual functional capacity. Physicians and psychologists (medical consultants) will be available for consultation with the Federal disability reconsideration officer. Prior to the date of your face-to-face interview, the Federal disability reconsideration officer will review your file. If you have submitted additional evidence, it will be considered. If this review results in the need for additional information, it will be requested before the face-to-face interview is to occur. If the additional information is received prior to the date of the interview, it will, as soon as possible, be reviewed with the other information in your file by the Federal disability reconsideration officer. If a fully favorable determination can be made at that time, it will be made, the scheduled interview will be canceled, and you will be so notified. If a fully favorable determination cannot be made, the face-to-face interview will not be canceled. If you are unable to travel or have some other reason why you cannot attend your interview at the scheduled time or place, you should request at the earliest possible date before the date of the interview that the time or place be changed. The Federal disability reconsideration officer will change the time or place if there is good cause for doing so under the standards in § 416.1436 (c) and (d). If you attend the interview, the Federal disability reconsideration officer will make a reconsideration determination based on the evidence in your file, including evidence obtained at the interview or any additional evidence you submit or we requested prior to the interview.

(i) *Your rights.* In connection with your interview—

(A) You may request that we assist you in obtaining pertinent evidence about your disability;

(B) You may have a representative, appointed under subpart O of this part, at your interview, or you may represent yourself;

(C) You or your representative may review the evidence in your case file, either on the date of your interview or at an earlier time at your request;

(D) You or your representative may present additional evidence and bring witnesses to support your case at your interview; and

(E) You, your representative, and your witnesses may be eligible for reimbursement of travel expenses under §§ 416.1495 through 416.1499 incurred in connection with your interview if the distance from the person's residence or office (whichever he or she travels from) to the interview site exceeds 75 miles.

(ii) [Reserved]

(5) In the reconsideration elimination model, we will modify the initial disability determination process by eliminating the reconsideration step of the administrative review process. If you receive an initial disability determination that is less than fully favorable, you will be notified that you may request a hearing before an administrative law judge. If you request a hearing before an administrative law judge, we will apply our usual procedures contained in subpart N of this part.

(c) *Authority and purpose.* Any tests we conduct will be under the authority given the Secretary by sections 1102 and 1631(d)(1) of the Act to promulgate reasonable and proper rules and regulations and to establish appropriate procedures for administering the Supplemental Security Income program. The purpose of the tests of any of the models described above is to enable SSA to make recommendations for national implementation of improvements to the disability process.

[FR Doc. 93-26025 Filed 10-21-93; 8:45 am]

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## Food and Drug Administration

### 21 CFR Part 101

[Docket Nos. 93N-0289, 93N-289C, 93N-289F, 93N-289A, 93N-289O, and 93N-289Z]

RIN 0905-AD96

### Food Labeling; Health Claims for Dietary Supplements; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

**SUMMARY:** The Food and Drug Administration (FDA) is correcting a proposed rule that appeared in the *Federal Register* of October 14, 1993 (58 FR 53296). The document proposed not to authorize health claims relating to an

association between fiber and cancer, fiber and heart disease, antioxidant vitamins and cancer, *omega*-3 fatty acids and coronary heart disease, and zinc and immune function in the elderly on the label or in the labeling of dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances. The document was published with some inadvertent editorial errors. This document corrects those errors.

**DATES:** Written comments by December 13, 1993.

**FOR FURTHER INFORMATION CONTACT:** Judith W. Riggins, Office of Policy (HF-23), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2831.

In FR Doc. 93-25029, appearing on page 53296, in the *Federal Register* of October 14, 1993, the following corrections are made:

1. On page 53296, in the first column, "[Docket No. 93N-0289]" is corrected to read "[Docket Nos. 93N-0289, 93N-289C, 93N-289F, 93N-289A, 93N-289O, and 93N-289Z]".

2. On page 53305, in the first column, under section "IX.", in the second paragraph, after the third sentence, a sentence is added to read as follows: \* \* \*. "Comments relating to an association between fiber and cancer should be directed to docket number 93N-289C; comments relating to an association between fiber and heart disease should be directed to docket number 93N-289F; comments relating to an association between antioxidant vitamins and cancer should be directed to docket number 93N-289A; comments relating to an association between *omega*-3 fatty acids and coronary heart disease should be directed to docket number 93N-289O; and comments relating to an association between zinc and immune function in the elderly should be directed to docket number 93N-289Z." \* \* \*

Dated: October 18, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93-26151 Filed 10-20-93; 12:15 pm]

BILLING CODE 4190-01-F