

Administrator has made a commitment to establish stronger partnerships with the individuals, businesses, and other entities that government regulations impact. To fulfill this commitment, the FAA has planned a series of forums throughout the United States in which the Administrator and Deputy Administrator will listen to the regulated community, the traveling public, and the people responsible for ensuring compliance so that they can work together to achieve compliance. As indicated in the planned agenda, the first portion of the May 18 meeting will be an open forum with the Administrator and Deputy Administrator. Interested persons may comment on a variety of issues important to them. The FAA would be particularly interested in hearing what actions in our mutual relationship work well and which ones do not.

Following the forum with the Administrator and Deputy Administrator, the FAA will conduct a public meeting, beginning at 1:00 p.m., on the recently published commuter proposed rule. Comments from the public on this meeting should be directed specifically to the proposed rule.

The notice of proposed rulemaking was published in the Federal Register on March 29, 1995. If adopted, the proposed rule would require certain commuter operators that now conduct operations under part 135 to conduct those operations under part 121. The commuter operators that would be affected are those part 135 operators conducting scheduled passenger-carrying operations in airplanes that have a passenger-seating configuration of 10 to 30 seats and those conducting scheduled passenger-carrying operations in turbojets regardless of seating configuration. The proposed rule would revise the requirements concerning operating certificates and operations specifications. The rule would also propose certain management officials for all operators under parts 121 and 135.

The closing date for comments on the proposal is June 27, 1995. To give the public an additional opportunity to comment on the proposed rule the FAA is planning this public meeting. Other meetings may be planned at various locations.

Persons interested in obtaining a copy of the proposed commuter rule should contact Linda Williams at the address or telephone number provided in **FOR FURTHER INFORMATION CONTACT.**

#### *Participation at the Public Meeting on the Commuter NPRM*

Requests from persons who wish to present oral statements at the public meeting on the commuter NPRM should be received by the FAA no later than May 5, 1995. Such requests should be submitted to Linda Williams as listed in the section titled **FOR FURTHER INFORMATION CONTACT** and should include a written summary of oral remarks to be presented and estimated time needed for the presentation. Requests received after the date specified above will be scheduled if time is available during the meeting; however, the name of those individuals may not appear on the written agenda. The FAA will prepare an agenda of speakers that will be available at the meeting. To accommodate as many speakers as possible, the amount of time allocated to each speaker may be less than the amount of time requested.

#### *Public Meeting Procedures*

The following procedures are established to facilitate the public meeting on the commuter NPRM:

1. There will be no admission fee or other charge to attend or to participate in the public meeting. The meeting will be open to all persons who have requested in advance to present statements or who register on the day of the meeting (between 12:30 p.m. and 1:00 p.m.) subject to availability of space in the meeting room.

2. The public meeting may adjourn early if scheduled speakers complete their statements in less time than currently is scheduled for the meeting.

3. The FAA will try to accommodate all speakers; therefore, it may be necessary to limit the time available for an individual or group.

4. Participants should address their comments to the panel. No individual will be subject to cross-examination by any other participant.

5. Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting.

6. Representatives of the FAA will conduct the public meeting. A panel of FAA personnel involved in this issue will be present.

7. The meeting will be recorded by a court reporter. A transcript of the meeting and any material accepted by the panel during the meeting will be included in the public docket (Docket No. 28154). Any person who is interested in purchasing a copy of the transcript should contact the court reporter directly. This information will be available at the meeting.

8. The FAA will review and consider all material presented by participants at the public meeting. Position papers or material presenting views or information related to the proposed NPRM may be accepted at the discretion of the presiding officer and subsequently placed in the public docket. The FAA requests that persons participating in the meeting provide 10 copies of all materials to be presented for distribution to the panel members; other copies may be provided to the audience at the discretion of the participant.

9. Statements made by members of the public meeting panel are intended to facilitate discussion of the issues or to clarify issues. Because the meeting concerning the commuter NPRM is being held during the comment period, final decisions concerning issues that the public may raise cannot be made at the meeting. FAA officials will, however, ask questions to clarify statements made by the public and to ensure a complete and accurate record. Comments made at this public meeting will be considered by the FAA when deliberations begin concerning whether to adopt any or all of the proposed rules.

10. The meeting is designed to solicit public views and more complete information on the proposed rule. Therefore, the meeting will be conducted in an informal and nonadversarial manner.

Issued in Washington, DC, on April 11, 1995.

Thomas C. Accardi,

*Director, Flight Standards Service.*

[FR Doc. 95-9387 Filed 4-12-95; 1:17 pm]

BILLING CODE 4910-13-M

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## **SOCIAL SECURITY ADMINISTRATION**

### **20 CFR Parts 404 and 416**

**RIN 0960-AE10**

#### **Administrative Review Process, Prehearing Proceedings and Decisions by Attorney Advisors**

**AGENCY:** Social Security Administration.

**ACTION:** Proposed rule.

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**SUMMARY:** We propose to amend our regulations to provide, on a temporary basis, that in claims for Social Security or Supplemental Security Income (SSI) benefits based on disability, attorney advisors in our Office of Hearings and Appeals (OHA) will have authority to conduct certain prehearing proceedings, and where the record developed as a result of these proceedings warrants, to

issue decisions that are wholly favorable to the parties to the hearing.

Because requests for an administrative law judge (ALJ) hearing have increased dramatically in recent years, and cases pending in our hearing offices have reached unprecedented levels, we have taken a number of actions designed to help us hear and decide these cases more efficiently. The rules we are proposing in this notice of proposed rulemaking are an important part of our efforts in this regard.

**DATES:** To be sure that your comments are considered, we must receive them no later than May 15, 1995.

**ADDRESSES:** Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, Maryland 21235, sent by telefax to (410) 966-2830, sent by E-mail to "regulations@ssa.gov", or delivered to the Division of Regulations and Rulings, Social Security Administration, 3-A-3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below. The electronic file of this document is available on the Federal Bulletin Board (FBB) at 9:00 a.m. on the date of publication in the Federal Register. To download the file, modem dial (202) 512-1387. The FBB instructions will explain how to download the file and the fee. This file is in Wordperfect and will remain on the FBB during the comment period.

**FOR FURTHER INFORMATION CONTACT:** Harry J. Short, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, Social Security Boulevard, Baltimore, Maryland 21235, (410) 965-6243.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Social Security Administration (SSA) decides claims for Social Security benefits under title II of the Social Security Act (the Act) and for SSI benefits under title XVI of the Act in an administrative review process that generally consists of four steps. Claimants who are not satisfied with the initial determination we make on a claim may request reconsideration. Claimants who are not satisfied with our reconsidered determination may request a hearing before an ALJ, and claimants who are dissatisfied with an ALJ's decision may request review by the Appeals Council. Claimants who have completed these steps, and who are not satisfied with our final decision, may

request judicial review of the decision in the Federal courts.

Generally, when a claim is filed for Social Security or SSI benefits based on disability, a State agency makes the initial and reconsideration disability determination for us. A hearing requested after we have made a reconsideration determination is conducted by an ALJ in one of the 132 hearing offices we have nationwide.

Applications for Social Security and SSI benefits based on disability have risen dramatically in recent years. The number of new disability claims SSA received in Fiscal Year (FY) 1994—3.56 million—represented a 40 percent increase over the number received in FY 1990. Requests for an ALJ hearing also have increased dramatically. In FY 1994, our hearing offices had almost 540,000 hearing receipts and most of these were related to requests for a hearing filed by persons claiming disability benefits. In that year, the number of hearing receipts we received exceeded the number of receipts we received in FY 1990 by more than 70 percent.

Despite management initiatives that resulted in a record increase in ALJ productivity in FY 1994, and the hiring of more than 200 new ALJs and more than 800 new support staff in that year, the number of cases pending in our hearing offices has reached unprecedented levels—more than 480,000 at the end of FY 1994.

On September 19, 1994, the Commissioner of Social Security published a *Plan for a New Disability Claim Process* in the Federal Register (59 FR 47887). That document sets forth our long term plans for redesigning and fundamentally improving the overall disability claim process. On a separate track from that longer term plan, we have developed short term initiatives to reduce the number of cases pending in our hearing offices. As part of our short term disability process improvements, we are issuing this notice of proposed rulemaking (NPRM) regarding a temporary change in our administrative review procedures.

Under the proposed rule, attorney advisors would conduct certain prehearing proceedings and, where appropriate, issue decisions that are wholly favorable to the claimant and any other party to the hearing. We are proposing that this procedure remain in effect for a period of time not to exceed two years from the effective date of a final rule authorizing the procedure unless the rule is extended by the Commissioner of Social Security by publication of a final rule in the Federal Register.

**Regulatory Provisions**

We propose to add new §§ 404.942 and 416.1442 to our regulations to authorize attorney advisors in OHA to conduct certain prehearing proceedings and, where appropriate, make decisions based on the documentary record that are wholly favorable to the parties. Our purpose in proposing these regulations is to expedite the processing of cases pending at OHA without infringing on the right of a claimant to a hearing before an ALJ.

The authority of an attorney advisor to conduct prehearing proceedings and to make decisions would be temporary, and it would apply only in the limited circumstances described below. Also, the attorney advisor's conduct of certain prehearing proceedings would not delay the scheduling of a hearing before an ALJ. If the prehearing proceedings were not concluded before the hearing date, the case would be sent to the ALJ unless a decision wholly favorable to the claimant and all other parties was in process, or the claimant and all other parties to the hearing agreed in writing to delay the hearing until the prehearing proceedings are completed.

Prehearing proceedings could be conducted by the attorney advisor under the proposed rule if new and material evidence is submitted; there is an indication that additional evidence is available; there is a change in the law or regulations; or there is an error in the file or some other indication that a wholly favorable decision could be issued. A decision by an attorney advisor would be mailed to all parties. The notice of decision would state the basis for the decision and advise the parties that an ALJ will dismiss the hearing request unless a request to proceed with the hearing was made by a party within 30 days after the date the notice of the decision was mailed.

We believe that these temporary procedures will enable us to manage our pending hearing requests in a more timely manner. They also may provide information that can help us better identify cases that can be decided without a hearing before an ALJ and improve our ability to narrow the issues that must be resolved before a decision can be made.

In view of the salutary effect we expect the rules to have on our ability to improve our service to claimants, and the importance we place on ensuring that we adjudicate claims timely and accurately, we are providing a 30-day comment period for these rules rather than the 60-day comment period we usually provide. We believe that in this instance a 30-day period is sufficiently

long to allow the public a meaningful opportunity to comment on the proposed rules, in accordance with Executive Order 12866.

#### Regulatory Procedures

##### *Executive Order No. 12866*

We have consulted with the Office of Management and Budget (OMB) and determined that this rule does not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, the rule is not subject to OMB review.

##### *Regulatory Flexibility Act*

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

##### *Paperwork Reduction Act*

These regulations impose no new reporting or recordkeeping requirements requiring OMB clearance.

(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, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

##### *20 CFR Part 416*

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

Dated: April 5, 1995.

Shirley S. Chater,

*Commissioner of Social Security.*

For the reasons set out in the preamble, subpart J of part 404 and subpart N of part 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 subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 205 (a), (b), and (d)–(h), 221(d), 225 and 1102 of the Social

Security Act; 31 U.S.C. 3720A; 42 U.S.C. 401(j), 405 (a), (b), and (d)–(h), 421(d), 425 and 1302; sec. 5 of Pub. L. 97-455, 96 Stat. 2500; sec. 6 of Pub. L. 98-460, 98 Stat. 1802.

2. New § 404.942 is added under the undesignated center heading "Hearing Before an Administrative Law Judge" to read as follows:

#### **§ 404.942 Prehearing proceedings and decisions by attorney advisors.**

(a) *General.* After a hearing is requested but before it is held, an attorney advisor in our Office of Hearings and Appeals may conduct prehearing proceedings as set out in paragraph (c) of this section. If upon the completion of these proceedings, a decision that is wholly favorable to you and all other parties may be made, an attorney advisor, instead of an administrative law judge, may issue such a decision. The conduct of the prehearing proceedings by the attorney advisor will not delay the scheduling of a hearing. If the prehearing proceedings are not completed before the date of the hearing, the case will be sent to the administrative law judge unless a wholly favorable decision is in process or you and all other parties to the hearing agree in writing to delay the hearing until the proceedings are completed.

(b) *When prehearing proceedings may be conducted by an attorney advisor.* An attorney advisor may conduct prehearing proceedings if you have filed a claim for benefits based on disability and—

(1) New and material evidence is submitted;

(2) There is an indication that additional evidence is available;

(3) There is a change in the law or regulations; or

(4) There is an error in the file or some other indication that a wholly favorable decision may be issued.

(c) *Nature of the prehearing proceedings that may be conducted by an attorney advisor.* As part of the prehearing proceedings, the attorney advisor, in addition to reviewing the existing record, may—

(1) Request additional evidence that may be relevant to the claim, including medical evidence; and

(2) If necessary to clarify the record for the purpose of determining if a wholly favorable decision is warranted, schedule a conference with the parties.

(d) *Notice of a decision by an attorney advisor.* If the attorney advisor issues a wholly favorable decision under this section, we shall mail a written notice of the decision to all parties at their last known address. We shall state the basis for the decision and advise all parties

that an administrative law judge will dismiss the hearing request unless a party requests that the hearing proceed. A request to proceed with the hearing must be made in writing within 30 days after the date the notice of the decision of the attorney advisor is mailed.

(e) *Effect of actions under this section.*

If under this section, an administrative law judge dismisses a request for a hearing, the dismissal is binding in accordance with § 404.959 unless it is vacated by an administrative law judge or the Appeals Council pursuant to § 404.960. A decision made by an attorney advisor under this section is binding unless—

(1) A party files a request to proceed with the hearing pursuant to paragraph (d) of this section and an administrative law judge makes a decision;

(2) The Appeals Council reviews the decision on its own motion pursuant to § 404.969 as explained in paragraph (f)(3) of this section; or

(3) The decision of the attorney advisor is revised under the procedures explained in § 404.987.

(f) *Ancillary provisions.* For the purposes of the procedures authorized by this section, the regulations of part 404 shall apply to—

(1) Authorize an attorney advisor to exercise the functions performed by an administrative law judge under §§ 404.1520a and 404.1546;

(2) Define the term "decision" to include a decision made by an attorney advisor, as well as the decisions identified in § 404.901; and

(3) Make the decision of an attorney advisor subject to review by the Appeals Council under § 404.969 if an administrative law judge dismisses the request for a hearing following issuance of the decision, and the Appeals Council decides to review the decision of the attorney advisor anytime within 60 days after the date of the dismissal.

(g) *Sunset provision.* The provisions of this section will no longer be effective on (insert date two years after the date the final rule is published in the Federal Register) unless they are extended by the Commissioner of Social Security by publication of a final rule in the Federal Register.

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

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

Authority: Sec. 1102, 1631, and 1633 of the Social Security Act; 42 U.S.C. 1302, 1383, and 1383b.

2. New § 416.1442 is added under the undesignated center heading "Hearing

Before an Administrative Law Judge" to read as follows:

**§ 416.1442 Prehearing proceedings and decisions by attorney advisors.**

(a) *General.* After a hearing is requested but before it is held, an attorney advisor in our Office of Hearings and Appeals may conduct prehearing proceedings as set out in paragraph (c) of this section. If upon the completion of these proceedings, a decision that is wholly favorable to you and all other parties may be made, an attorney advisor, instead of an administrative law judge, may issue such a decision. The conduct of the prehearing proceedings by the attorney advisor will not delay the scheduling of a hearing. If the prehearing proceedings are not completed before the date of the hearing, the case will be sent to the administrative law judge unless a wholly favorable decision is in process or you and all other parties to the hearing agree in writing to delay the hearing until the proceedings are completed.

(b) *When prehearing proceedings may be conducted by an attorney advisor.* An attorney advisor may conduct prehearing proceedings if you have filed a claim for SSI benefits based on disability and—

(1) New and material evidence is submitted;

(2) There is an indication that additional evidence is available;

(3) There is a change in the law or regulations; or

(4) There is an error in the file or some other indication that a wholly favorable decision may be issued.

(c) *Nature of the prehearing proceedings that may be conducted by an attorney advisor.* As part of the prehearing proceedings, the attorney advisor, in addition to reviewing the existing record, may—

(1) Request additional evidence that may be relevant to the claim, including medical evidence; and

(2) If necessary to clarify the record for the purpose of determining if a wholly favorable decision is warranted, schedule a conference with the parties.

(d) *Notice of a decision by an attorney advisor.* If the attorney advisor issues a wholly favorable decision under this section, we shall mail a written notice of the decision to all parties at their last known address. We shall state the basis for the decision and advise all parties that an administrative law judge will dismiss the hearing request unless a party requests that the hearing proceed. A request to proceed with the hearing must be made in writing within 30 days

after the date the notice of the decision of the attorney advisor is mailed.

(e) *Effect of actions under this section.* If under this section, an administrative law judge dismisses a request for a hearing, the dismissal is binding in accordance with § 416.1459 unless it is vacated by an administrative law judge or the Appeals Council pursuant to § 416.1460. A decision made by an attorney advisor under this section is binding unless—

(1) A party files a request to proceed with the hearing pursuant to paragraph (d) of this section and an administrative law judge makes a decision;

(2) The Appeals Council reviews the decision on its own motion pursuant to § 416.1469 as explained in paragraph (f)(3) of this section; or

(3) The decision of the attorney advisor is revised under the procedures explained in § 416.1487.

(f) *Ancillary provisions.* For the purposes of the procedures authorized by this section, the regulations of part 416 shall apply to—

(1) Authorize an attorney advisor to exercise the functions performed by an administrative law judge under §§ 416.920a, 416.924d(b), and 416.946;

(2) Define the term "decision" to include a decision made by an attorney advisor, as well as the decisions identified in § 416.1401; and

(3) Make the decision of an attorney advisor subject to review by the Appeals Council under § 416.1469 if an administrative law judge dismisses the request for a hearing following issuance of the decision, and the Appeals Council decides to review the decision of the attorney advisor anytime within 60 days after the date of the dismissal.

(g) *Sunset provision.* The provisions of this section will no longer be effective on (insert date 2 years after the date the final rule is published in the Federal Register) unless they are extended by the Commissioner of Social Security by publication of a final rule in the Federal Register.

[FR Doc. 95-9028 Filed 4-13-95; 8:45 am]

BILLING CODE 4190-29-P

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### 36 CFR Part 13

#### RIN 1024-AC25

#### Alaska; Trapping Regulations

**AGENCY:** National Park Service, Interior.

**ACTION:** Proposed rule; re-opening of public comment period.

**SUMMARY:** This proposed rule is a clarification of the National Park Service (NPS) restriction on the use of firearms and other weapons by trappers. The rulemaking addresses only the clarification of the language regarding trapping and the use of firearms in the taking of wildlife under a trapping license. This proposed rule, the substance of which was printed as a proposed rule along with a proposed rule to prohibit same-day-airborne hunting in national park areas on November 15, 1994 (59 FR 58804), extends the comment period for another 60-days to allow additional review and comment by interested groups and persons. The same-day-airborne hunting portion of the original proposed rule was published as a Final Rule on April 11, 1995 in a separate document.

**DATES:** Comments will be accepted until June 13, 1995.

**ADDRESSES:** Comments should be addressed to Robert D. Barbee, Regional Director, National Park Service, 2525 Gambell Street, Anchorage, AK 99503-2892 (Fax 907-257-2533).

**FOR FURTHER INFORMATION CONTACT:** Paul Hunter, National Park Service, Alaska Regional Office, 2525 Gambell Street, Anchorage, AK 99503-2892 (Telephone 907-257-2646; Fax 907-257-2410).

#### SUPPLEMENTARY INFORMATION:

Extended Comment Period: Firearm Restriction for Trapping

This document announces a 60-day re-opening of the comment period for the trapping clarification portion of the proposed rule published in the Federal Register on November 15, 1994 (59 FR 58804). The clarification portion, 36 CFR 13.21(d)(5), of the proposed rule, relates to existing regulations (36 CFR 13.1(u) and 36 CFR 1.4(a)) that generally prohibit the use of a firearm for trapping in NPS-managed areas in Alaska. The initial comment period expired on December 15, 1994. Many comments received during this comment period, including comments from local advisory groups, governmental units and Alaska residents, requested additional time to review the proposed clarification and the existing regulation. Although this provision of the regulation has been in effect since 1981, there is apparent confusion regarding its intent and effect, as well as its relationship to existing hunting and trapping practices. The extended comment period will allow full examination of these issues. Accordingly, the comment period for the clarification portion of the proposed rule concerning the use of firearms and weapons to take wildlife under a trapping license is hereby extended for