

### Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act<sup>4</sup> in general, and furthers the objectives of Section 6(b)(5)<sup>5</sup> in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to a free and open market and a national market system, and protect investors and the public interest.

#### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited or received written comments on the proposed rule change.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule, it has become effective pursuant to Section 19(b)(3)(A)(i) of the Act<sup>6</sup> and subparagraph (f)(1) of rule 19b-4<sup>7</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.<sup>8</sup>

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule

change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to the File No. SR-NYSE-00-04 and should be submitted by March 17, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 00-4382 Filed 2-24-00; 8:45 am]

BILLING CODE 8010-01-M

## SOCIAL SECURITY ADMINISTRATION

### Social Security Ruling, SSR 00-2p.— Titles II and XVI: Evaluation of Claims Involving the Issue of "Similar Fault" in the Providing of Evidence

**AGENCY:** Social Security Administration.  
**ACTION:** Notice of Social Security Ruling.

**SUMMARY:** In accordance with 20 CFR 402.35(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling, SSR 00-2p. This Ruling sets forth the standards that we will apply at all levels of the administrative review process in determining whether there is reason to believe that "similar fault" was involved in providing evidence in connection with a claim for benefits. The Ruling sets forth the standards we will apply at all levels of adjudication pursuant to provisions of The Social Security Independence and Program Improvements Act of 1994 (Public Law 103-296), which amended sections 205 and 1631 of the Social Security Act (the Act). This Ruling applies to all claims for benefits under title II and title XVI of the Act; *i.e.*, claims for old-age and survivors benefits and disability benefits under title II of the Act, and claims for Supplemental Security Income benefits for the aged, blind, and disabled under title XVI.

**EFFECTIVE DATE:** February 25, 2000.

**FOR FURTHER INFORMATION CONTACT:** Len McMahan, Office of Disability, Division of Disability Process Policy, Social

Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-9051.

**SUPPLEMENTARY INFORMATION:** Although we are not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 402.35(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and policy interpretations of the law and regulations.

Although Social Security Rulings do not have the same force and effect as the statute or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 402.35(b)(1), and are to be relied upon as precedents in adjudicating cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance, Programs 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.003 Social Security—Special Benefits for Persons Aged 72 and Over; 96.004 Social Security—Survivors Insurance; 96.005 Special Benefits for Disabled Coal Miners; 96.006 Supplemental Security Income)

February 2, 2000.

**Kenneth S. Apfel,**

*Commissioner of Social Security.*

### Policy Interpretation Ruling—Titles II and XVI: Evaluation of Claims Involving the Issue of "Similar Fault" in the Providing of Evidence

**Purpose:** To explain the rules that govern the evaluation and adjudication of claims when there is reason to believe that "similar fault" was involved in the providing of evidence in support of the claim.

**Citations (authority):** Sections 205(u) and 1631(e)(7) of the Social Security Act, as amended; Regulations No. 4, sections 404.704, 404.708, 404.1512, 404.1520, and 404.1527; Regulations No. 16, sections 416.912, 416.920, 416.924, and 416.927; and Regulations No. 22, section 422.130(b).

**Introduction:** The Social Security Independence and Program Improvements Act of 1994, Public Law 103-296, amended the Social Security

<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> 15 U.S.C. 78f(b)(5).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>7</sup> 17 CFR 240.19b-4(f)(1).

<sup>8</sup> In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

Act (the Act) concerning fraud or similar fault. These amendments to sections 205 and 1631 of the Act provide that the Social Security Administration (SSA) shall immediately redetermine an individual's entitlement to monthly insurance benefits under title II or eligibility for benefits under title XVI if there is reason to believe that fraud or similar fault was involved in the individual's application for such benefits. This legislation further provides that, when redetermining entitlement or eligibility, or when making an initial determination of entitlement or eligibility, SSA "shall disregard any evidence if there is reason to believe that fraud or similar fault was involved in the providing of such evidence."

This Ruling sets forth the standards we (SSA and State agency adjudicators) will apply at all levels of the administrative review process in determining whether there is reason to believe that "similar fault" was involved in providing evidence in connection with a claim for benefits. It also provides guidance for the evaluation of such claims when there is reason to believe that "similar fault" was involved. It applies to all claims for benefits under title II and title XVI of the Act; i.e., claims for old-age and survivors benefits and disability benefits under title II of the Act, and claims for Supplemental Security Income benefits for the aged, blind, and disabled under title XVI.

This Ruling does not replace or limit other appropriate standards and criteria for development and evaluation of claims. There may be instances in which evidence will not be disregarded under the statutory provisions discussed in this Ruling, but factors nevertheless may exist that justify giving the evidence in question less credence than other evidence. For example, in disability claims such standards frequently include those set forth in 20 CFR 404.1527 and 416.927 for evaluating medical opinions, and those set forth in Social Security Ruling (SSR) 96-7p, "Titles II and XVI: Evaluation of Symptoms in Disability Claims: Assessing the Credibility of an Individual's Statements."

## Interpretation

### General

1. Sections 205(u) and 1631(e)(7) of the Act provide that evidence shall be disregarded if there is reason to believe that fraud or similar fault was involved in the providing of that evidence. These sections explain that "similar fault" is involved if: "(A) an incorrect or

incomplete statement that is material to the determination is knowingly made; or (B) information that is material to the determination is knowingly concealed."

2. Adjudicators may disregard evidence based on "similar fault" of a claimant, a recipient of benefits, or any other person connected with the claim. The other person need not have any direct relationship to the claimant or recipient, or be acting on behalf of the claimant or recipient.

3. A "similar fault" finding can be made only if there is reason to believe, based on a preponderance of the evidence, that the person committing the fault knew that the evidence provided was false or incomplete. A "similar fault" finding cannot be based on speculation or suspicion.

4. A "similar fault" finding is sufficient to take the administrative actions described in this Ruling. Although a finding of "fraud" made as part of a criminal prosecution can serve as a basis for the administrative actions described below, such a finding is not required.

5. A "similar fault" finding concerning a material fact may constitute evidence to be considered in determining whether there is reason to believe that "similar fault" was involved with respect to other evidence provided by the same source, and may justify disregarding other evidence from that source. Also, the evidence relied on to make a "similar fault" finding in one claim may be considered in deciding whether there is "similar fault" in another claim or in deciding whether to give less weight to evidence in another claim.

6. A "similar fault" finding does not constitute complete adjudicative action in any claim. A person may still be found entitled to, or eligible for, monthly benefits despite the fact that some evidence in the case record has been disregarded based on "similar fault."

### Definitions

1. *Similar Fault.* As defined in section 205(u) and 1631(e)(7) of the Act, "similar fault" is involved if: "(A) an incorrect or incomplete statement that is material to the determination is knowingly made; or (B) information that is material to the determination is knowingly concealed." "Similar fault" differs from "fraud" in that fraud (but not similar fault) includes an element of intent to defraud.

2. *Material.* Used to describe a statement or information, or an omission from a statement or information, that could influence SSA in determining entitlement to monthly

benefits under title II or eligibility for monthly benefits under title XVI of the Act.

3. *Knowingly.* Used to describe how a person acts in furnishing information that he or she knows is false or incomplete.

4. *Preponderance of evidence.* A standard for deciding questions of fact and other issues. To apply this standard, the adjudicator weighs the evidence to decide which side of an issue is supported by the evidence with the greater weight. Preponderance is established by that piece or body of evidence that, when fairly considered, produces the stronger impression and is more convincing as to its truth when weighed against the evidence in opposition. Thus, "preponderance" does not require that a certain number of pieces of evidence (e.g., five or six) must be present. It is possible that just one piece of evidence may be so convincing that it outweighs more than one piece of evidence in opposition.

### Development and Evaluation

Adjudicators at all levels of the administrative review process are responsible for taking all appropriate steps to resolve "similar fault" issues in accordance with the standards in this Ruling. Adjudicators must adhere to existing due process and confidentiality requirements during the process of resolving "similar fault" issues.

In making determinations whether there is "similar fault," all adjudicators must:

1. Consider all evidence in the case record before determining whether specific evidence may be disregarded.

2. Apply the preponderance of evidence standard, as defined in this Ruling.

3. Fully document the record with the evidence that was the basis for the finding that, based on a preponderance of the evidence, there is reason to believe that "similar fault" was involved in providing the evidence that is being disregarded.

### Notice of Determination or Decision

In determinations or decisions in which a "similar fault" finding is being made and evidence is being disregarded, the notice of determination or decision must:

1. Explain the applicable provision of the Act that allows the adjudicator to disregard particular evidence due to a "similar fault" finding.

2. Identify the documents or other evidence that is being disregarded.

3. Provide a discussion of the evidence that supports a finding to disregard evidence. The discussion

must explain that, in accordance with the law, the evidence identified cannot be used as evidence in the claim because, after considering all the information in the case record, the adjudicator has reason to believe that "similar fault" was involved in providing the evidence and it must be disregarded. Again, a "similar fault" finding can be made only if there is reason to believe, based on a preponderance of the evidence, that the person knew that the evidence provided was false or incomplete. A "similar fault" finding cannot be based on speculation or suspicion.

4. Provide a determination or decision based on an evaluation of the remaining evidence in accordance with other rules and procedures. A "similar fault" finding does not constitute complete adjudicative action in any claim. A person may still be found entitled to, or eligible for, monthly benefits despite the fact that some evidence in the case record has been disregarded based on "similar fault." For example, a person may be found to be under a "disability" based on impairments that are established by evidence that is not disregarded because of "similar fault."

5. Include standard appeal language.

**EFFECTIVE DATE:**

This Ruling is effective February 25, 2000.

**CROSS-REFERENCES:**

SSR 96-7p, "Titles II and XVI: Evaluation of Symptoms in Disability Claims: Assessing the Credibility of an Individual's Statements," SSR 85-23, "Title XVI: Reopening Supplemental Security Income Determinations at Any Time for "Similar Fault." Program Operations Manual System, DI 23025.001-DI 23025.095.

[FR Doc. 00-4417 Filed 2-24-00; 8:45 am]

BILLING CODE 4191-02-U

**DEPARTMENT OF STATE**

[Public Notice No. 3223]

**Advisory Committee on Historical Diplomatic Documentation Notice of Charter Renewal**

The Advisory Committee on Historical Diplomatic Documentation is renewing its charter for a period of two years. This Advisory Committee will continue to make recommendations to the Historian and the Department of State on all aspects of the Department's program to publish the Foreign Relations of the United States series as well as on the Department's responsibility under statute (22 USC 4351, *et seq.*) to open its 30-year-old and

older records for public review at the National Archives and Records Administration. The Committee consists of nine members drawn from among historians, political scientists, archivists, international lawyers, and other social scientists who are distinguished in the field of U.S. foreign relations.

Questions concerning the Committee and the renewal of its Charter should be directed to William Slany, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC, 20520, telephone (202) 663-1123 (e-mail [pahistoff@panet.us-state.gov](mailto:pahistoff@panet.us-state.gov)).

Dated: February 16, 2000.

**William Slany,**

*Executive Secretary, Office of the Historian, U.S. Department of State.*

[FR Doc. 00-4498 Filed 2-24-00; 8:45 am]

BILLING CODE 4710-01-P

**DEPARTMENT OF TRANSPORTATION**

**Office of the Secretary**

**Availability of the Federal Radionavigation Plan**

**AGENCY:** Office of the Assistant Secretary for Transportation Policy, DOT.

**ACTION:** Availability of the Federal Radionavigation Plan.

**SUMMARY:** The 1999 edition of the Federal Radionavigation Plan (FRP) has been published and is available for comment. All comments, concerns, and suggestions regarding the current policies and plans in the 1999 FRP will be considered in formulation of the 2001 FRP. The policies in the 1999 FRP include provisions for two additional Global Positioning System (GPS) signals for civil use and focus on transition to GPS based services with recognition of the need to maintain some existing navigation aids. The schedule in the 1999 FRP includes an initial operating capability for the FAA Wide Area Augmentation System at the end of 2001. The FAA's Local Area Augmentation System is planned to begin service at selected airports in 2003. The 1999 FRP also includes a revised schedule for phasing down land-based navigation aids. The phase down of VOR/DMEs, ILSs and MLSs for Category I approaches, and TACAN will begin in 2008. The phase down of ILSs for Category II and III approaches will not begin before 2015. The U.S. will continue operating Loran-C in the short term while the Administration

continues to evaluate the long-term need for the system. Maritime radiobeacons not used for differential GPS are expected to be phased out by 2000. Stand-alone aeronautical NDBs will be phased out after 2008. NDBs used as compass locators for ILSs will be phased out when the underlying ILSs are withdrawn.

**DATES:** Comments must be received by July 31, 2000 for consideration in development of the 2001 FRP.

**ADDRESSES:** Comments should be forwarded to Chairman, DOT POS/NAV Working Group, Department of Transportation (P-7), Room 10315, 400 Seventh Street, SW., Washington, DC 20590. Email:

[michael.shaw@ost.dot.gov](mailto:michael.shaw@ost.dot.gov). In addition to written input, two public meetings will be held to solicit verbal input.

Comments received at the public meetings on the policies and plans contained in the 1999 FRP will be considered in formulation of the 2001 FRP. The first meeting is scheduled for March 28 through March 30, 2000, at the Fair Oaks Holiday Inn in Fairfax, VA. See notice of meeting under Transportation Department in **Federal Register**, 65 FR (6437) 2/9/2000. The second meeting will be held at the end of June, 2000, in San Diego. A **Federal Register** notice will be issued in advance of the meeting.

**FOR FURTHER INFORMATION CONTACT:**

Michael Shaw, Department of Transportation (P-7), 400 7th Street, SW., Washington, DC, 20590, (202) 366-0353.

**SUPPLEMENTARY INFORMATION:** Free copies of the 1999 FRP are available from the Volpe National Transportation System Center, Kendall Square, Cambridge, MA 02142. The telephone number there is (617) 494-2908. The 1999 FRP is also on the Internet World Wide Web at <http://www.navcen.uscg.mil/frp>.

Issued in Washington, DC on February 18, 2000.

**Joseph F. Canny,**

*Deputy Assistant Secretary For Navigation Systems Policy.*

[FR Doc. 00-4483 Filed 2-24-00; 8:45 am]

BILLING CODE 4910-62-U

**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

[USCG-2000-6950]

**Collection of Information under Review by Office of Management and Budget (OMB): 2115-0614 and 2115-0545**

**AGENCY:** Coast Guard, DOT.