

airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish additional controlled airspace at Driggs-Reed Memorial Airport, Driggs, ID.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9V, Airspace Designations and Reporting Points, dated August 9, 2011, and effective September 15, 2011 is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM ID E5 Driggs, ID [Modified]

Driggs-Reed Memorial Airport, ID

(Lat. 43°44'34" N., long. 111°05'48" W.)

That airspace extending upward from 700 feet above the surface within a 10.4-mile radius of Driggs-Reed Memorial Airport, and within 4.5 miles either side of the 344° bearing of the airport extending from the 10.4-mile radius to 14.8 miles northwest of Driggs-Reed Memorial Airport, and within 2 miles west and 5.4 miles east of the 208° bearing of the airport extending from the 10.4-mile radius to 13 miles south of Driggs-Reed Memorial Airport.

Issued in Seattle, Washington, on September 1, 2011.

Robert Henry,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2011-23289 Filed 9-12-11; 8:45 am]

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SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA-2010-0060]

RIN 0960-AH26

Expedited Vocational Assessment Under the Sequential Evaluation Process

AGENCY: Social Security Administration.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to give adjudicators the discretion to proceed to the fifth step of the sequential evaluation process for assessing disability when we have insufficient information about a claimant's past relevant work history to make the findings required for step 4. If an adjudicator finds at step 5 that a claimant may be unable to adjust to other work existing in the national economy, the adjudicator would return to the fourth step to develop the claimant's work history and make a finding about whether the claimant can perform his or her past relevant work. This proposed new process would not disadvantage any claimant or change the ultimate conclusion about whether a claimant is disabled, but it would promote administrative efficiency and help us make more timely disability determinations and decisions.

DATES: To ensure that your comments are considered, we must receive them no later than November 14, 2011.

ADDRESSES: You may submit comments by any one of three methods—Internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA-2010-0060 so that we may associate your comments with the correct regulation.

Caution: You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social Security numbers or medical information.

1. **Internet:** We strongly recommend this method for submitting your comments. Visit the Federal eRulemaking portal at <http://www.regulations.gov>. Use the *Search* function of the webpage to find docket number SSA-2010-0060 and then submit your comment. Once you submit your comment, the system will issue you a tracking number to confirm your

submission. You will not be able to view your comment immediately as we must manually post each comment. It may take up to a week for your comment to be viewable.

2. **Fax:** Fax comments to (410) 966-2830.

3. **Mail:** Address your comments to the Office of Regulations, Social Security Administration, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235-6401.

Comments are available for public viewing on the Federal eRulemaking portal at <http://www.regulations.gov> or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT:

Janet Truhe, Office of Disability Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, (410) 966-7203. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213, or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION:

Background

The Current Sequential Evaluation Process

We use a five-step “sequential evaluation process”¹ to decide whether a claimant is disabled² when he or she applies for disability benefits under title II of the Social Security Act (Act) or Supplemental Security Income payments based on disability under title XVI of the Act. We follow each step in a set order. If we can find that a claimant is disabled or not disabled at a step, we do not go on to the next step.³ If we cannot find that a claimant is disabled or not disabled at a step, we evaluate the claim at the next step in the sequential evaluation process.⁴ The following is a general overview of the five steps.

At step 1, we consider whether a claimant is working and whether the work qualifies as “substantial gainful

¹ 20 CFR 404.1520 and 416.920.

² A claimant is disabled if he or she is unable to do any substantial gainful activity because he or she has a medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a period of at least 12 continuous months. See 42 USC 423(d)(1)(A) and 1382c(a)(3)(A); 20 CFR 404.1505 and 416.905.

³ 20 CFR 404.1520(a)(4) and 416.920(a)(4).

⁴ *Id.*

activity.”⁵ If the claimant is doing substantial gainful activity, we will find that the claimant is not disabled, regardless of his or her medical condition, age, education, and work experience. If the claimant is not performing substantial gainful activity, we go to the second step of the sequential evaluation process.

At step 2, we consider whether a claimant has any “severe” impairment(s), which significantly limits his or her physical or mental ability to do basic work activities⁶ and whether the impairment(s) meets the statutory duration requirement.⁷ If the claimant’s impairment(s) is not severe or if it does not meet the duration requirement, we will find that the claimant is not disabled.⁸ If the claimant has a severe impairment(s) that meets the duration requirement, we go to the third step of the sequential evaluation process.

At step 3, we consider whether a claimant’s impairment(s) meets or medically equals in severity an impairment(s) in the Listing of Impairments.⁹ If the claimant’s impairment(s) meets or medically equals in severity a listed impairment, we will find that the claimant is disabled. If the claimant does not have an impairment(s) that meets or medically equals in severity a listed impairment, we determine the claimant’s residual functional capacity (RFC)¹⁰ before we go to the fourth step of the sequential evaluation process.

At step 4, we consider whether a claimant can perform any of his or her past relevant work (either as the claimant actually performed it or as the work is generally performed in the national economy) given his or her RFC.¹¹ Past relevant work is work that a claimant did within the past 15 years, that qualifies as “substantial gainful activity,” and that lasted long enough

for the claimant to learn to do it.¹² If we find that the claimant can perform any of his or her past relevant work, we will find that the claimant is not disabled. If the claimant cannot perform any of his or her past relevant work, we go to the fifth step of the sequential evaluation process because we do not allow claims at step 4.

At step 5, we consider whether a claimant’s impairment(s) prevents him or her from doing any other work that exists in significant numbers in the national economy, considering his or her RFC and vocational factors (age,¹³ education,¹⁴ and work experience¹⁵).¹⁶ If we find that the claimant cannot perform other work, we will find that the claimant is disabled. If we find that the claimant can perform other work, we will find that the claimant is not disabled.

How We Currently Obtain Evidence and Consider Disability at Step 4 of the Sequential Evaluation Process

At step 4, we determine whether a claimant can perform his or her past relevant work given his or her RFC. We require claimants to provide us with evidence about the work they performed during the relevant 15-year period. This evidence constitutes the claimant’s work history.

We need information about each of the claimant’s jobs, including but not limited to: (1) The claimant’s job duties; (2) any tools, machinery or equipment he or she used; (3) the amount of walking, standing, sitting, lifting, and carrying the claimant did during the workday; (4) how long the claimant worked at each job; and (5) the physical and mental demands required of the job (either as the claimant actually performed it or as it is generally performed in the national economy).¹⁷

A claimant provides us with work history information on the Form SSA–3368 “Disability Report—Adult” (or the Internet version of this form¹⁸) and, when necessary, the Form SSA–3369 “Work History Report.”¹⁹ Sometimes a claimant does not provide enough information on these forms for us to make a step 4 finding. If we do not have sufficient information, we will try to contact the claimant and possibly the

claimant’s former employer or other person who knows about the work, such as a family member or co-worker.²⁰

Once we have obtained all the information we need, we then compare the claimant’s RFC to the physical and mental demands of these past relevant jobs to determine whether the claimant can still perform any of them. To make this comparison, we may use the services of vocational experts, vocational specialists, or other resources, such as the *Dictionary of Occupational Titles*, its companions, and supplements (published by the Department of Labor).²¹ If we find that a claimant can perform any of his or her past relevant work, either as actually performed or as generally performed in the national economy, we will find that the claimant is not disabled. If the claimant cannot perform any of his or her past relevant work, we go to step 5 to determine whether he or she can perform other work that exists in significant numbers in the national economy.

How We Currently Obtain Evidence and Consider Disability at Step 5 of the Sequential Evaluation Process

At step 5, we determine whether a claimant’s impairment(s) prevents him or her from doing any other work that exists in significant numbers in the national economy, considering his or her RFC (physical and mental) and vocational factors (age, education, and work experience).²² We use several methods to help us make this finding.

First, we determine whether the claimant’s impairment(s) and his or her vocational factors match one of the special medical-vocational profiles, which show an inability to adjust to other work.²³ If those profiles do not apply, we use the Medical-Vocational Guidelines (Guidelines) either directly or as a framework²⁴ to consider whether the claimant can perform any other work that exists in significant numbers in the national economy.²⁵ If a claimant’s RFC and vocational factors do not coincide with any of the

⁵ 20 CFR 404.1520(a)(4)(i) and 416.920(a)(4)(i). We explain substantial gainful activity at 20 CFR 404.1510, 404.1572, 416.910, and 416.972.

⁶ See 20 CFR 404.1520(a)(4)(ii), 404.1520(c), 416.920(a)(4)(ii) and 416.920(c). We explain what we mean by an impairment that is not severe in 20 CFR 404.1521 and 416.921. We use the term “impairment(s)” to mean an “impairment or combination of impairments” in this NPRM.

⁷ 20 CFR 404.1520(a)(4)(ii) and 416.920(a)(4)(ii). We explain the duration requirement at 20 CFR 404.1509 and 416.909.

⁸ 20 CFR 404.1520(a)(4)(ii), 404.1520(c), 416.920(a)(4)(ii), and 416.920(c).

⁹ 20 CFR 404.1520(a)(4)(iii) and 416.920(a)(4)(iii). The Listing of Impairments are found at 20 CFR part 404 subpart P, appendix 1, and they apply to title XVI under 20 CFR 416.925.

¹⁰ See 20 CFR 404.1545 and 416.945. The RFC includes an assessment of both a claimant’s physical and mental capacities.

¹¹ 20 CFR 404.1520(a)(4)(iv), 404.1560(b)(2), 416.920(a)(4)(iv), and 416.960(b)(2).

¹² See 20 CFR 404.1560(b)(1) and 416.960(b)(1).

¹³ See 20 CFR 404.1563 and 416.963.

¹⁴ See 20 CFR 404.1564 and 416.964.

¹⁵ See 20 CFR 404.1565 and 416.965.

¹⁶ 20 CFR 404.1520(a)(4)(v) and 404.920(a)(4)(v).

¹⁷ 20 CFR 404.1560(b)(2), 404.1565, 416.960(b)(2), and 416.965.

¹⁸ Currently available at <https://secure.ssa.gov/apps6z/radr/radr-fi>.

¹⁹ Currently available at <http://www.socialsecurity.gov/online/ssa-3369.pdf>.

²⁰ 20 CFR 404.1565(b) and 416.965(b).

²¹ 20 CFR 404.1560(b)(2), 404.1566(e), 416.960(b)(2), and 416.966(e).

²² 20 CFR 404.1560(c)(1) and 416.960(c)(1).

²³ See 20 CFR 404.1562 and 416.962. Social Security Ruling 82–63, and POMS DI 25010.001, available at <http://policy.net.ba.ssa.gov/poms.nsf/lrx/0425010001>. However, the special medical-vocational profile in 20 CFR 404.1562(b) and 416.962(b) applies when a claimant does not have past relevant work experience.

²⁴ We use the Guidelines as a framework to evaluate a disability claim when a claimant has additional limitations that erode the available occupational base. 20 CFR 404.1569a and 416.969a.

²⁵ 20 CFR 404.1569a, 416.969a, and 20 CFR part 404, subpart P, appendix 2.

Guidelines, we use vocational experts, other vocational specialists, or other sources of reliable job information to obtain information to help us determine whether the claimant's RFC and vocational factors allow the claimant to perform other work that exists in significant numbers in the national economy.²⁶ If we find that a claimant cannot adjust to other work that exists in significant numbers in the economy, we find the claimant disabled. If we find that a claimant can adjust to other work that exists in significant numbers in the economy, we find the claimant not disabled.

Why We Propose To Change the Current Process

Gathering and evaluating a claimant's work history can be a time-consuming and labor-intensive process, particularly when the claimant has performed multiple jobs during the relevant 15-year period. The time we spend obtaining the work history needed to make step 4 findings frequently delays the processing of claims and requires us to divert our limited administrative resources from processing other claims. This delay can occur at all levels of the administrative review process.

Proposed Changes

We propose to give disability adjudicators at all levels of the disability determination process the discretion to evaluate a claim at step 5 before making a step 4 finding if there is insufficient evidence to make a finding at step 4. If there is insufficient information,²⁷ the adjudicator would have the discretion to either develop the work history at step 4 or go to step 5. If the adjudicator proceeds to step 5, the adjudicator would consider whether the claimant may be disabled based on: (1) The special medical-vocational profiles, (2) the Guidelines, whether directly or as a framework, or (3) an inability to meet the mental demands of unskilled work.²⁸ If any of these rules would indicate that the claimant may be disabled or if the adjudicator has any doubt whether the claimant can perform other work existing in significant numbers in the economy, the adjudicator *must* return to step 4 to further develop the claimant's vocational information and determine whether the claimant can perform his or her past relevant work. The adjudicator

must return to step 4 in this situation because the Act requires us to make a finding about a claimant's ability to do his or her past relevant work before we determine that he or she is disabled at step 5.²⁹

However, the Act does not require us to make such a specific finding before we determine that a claimant is not disabled.³⁰ Therefore, if the adjudicator can determine at step 5 that the claimant is not disabled based solely on age, education, and RFC, regardless of the claimant's skill level and transferability of those skills, the adjudicator would find the claimant is not disabled without returning to step 4. In some cases, we will be able to make a finding without developing a complete work history.³¹ This proposed expedited process would not disadvantage any claimant or change our ultimate conclusion about whether a claimant is disabled.

The proposed process would also shorten processing times in some cases because we would not need to collect unnecessary work history at step 4 for claims that we can appropriately deny at step 5 based solely on the claimant's age, education, and RFC. For the same reason, this expedited process also would help us allocate our resources more efficiently and assist in reducing the disability backlog.

We have been using an expedited process similar to the one we propose for almost 12 years in our ten "prototype" States.³² Adjudicators in the prototype States have been able to evaluate and deny a claim at step 5 in certain cases where there is insufficient information to make a finding at step

²⁹ 42 U.S.C. 423(d)(2)(A) and 1382c(a)(3)(B) provide that "an individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy * * *." Therefore, in order for a claimant to be found disabled, he or she must be both "unable to do his [or her] previous work" and unable to do "any other kind of substantial gainful work * * *."

³⁰ *Id.*

³¹ The proposed expedited process would also apply when a claimant's mental RFC allows him or her to meet the mental demands of unskilled work.

³² The ten prototype States are: Alabama, Alaska, California (Los Angeles North and Los Angeles West Branches), Colorado, Louisiana, Michigan, Missouri, New Hampshire, New York, and Pennsylvania. The prototype combines the use of a single decisionmaker at the initial level of our administrative review process (a disability examiner who may make the initial disability determination in most cases without obtaining the signature of a medical or psychological consultant) with the elimination of the reconsideration level of our administrative review process. 20 CFR 404.906, 416.1406; 74 FR 48797 (2009).

4.³³ Our experience in the prototype states supports the conclusion that the process does not change our ultimate decision as to whether or not a claimant is disabled.

We would apply this expedited process to adult disability and disabled adult child claims under titles II and XVI and to age 18 redeterminations under title XVI. We would also apply this process when we decide whether a current adult beneficiary's disability continues.³⁴ We would not use the proposed process to evaluate title XVI childhood disability claims because those claims do not use vocational criteria.³⁵

We propose to add this new procedure in new paragraphs 404.1520(h), 404.1594(f)(9), 416.920(h), and 416.994(b)(5)(viii). We also propose to make a number of conforming changes and plain language changes in other sections.

Clarity of These Proposed Rules

Executive Order 12866 requires each agency to write all rules in plain language. In addition to your substantive comments on this NPRM, we invite your comments on how to make them easier to understand.

For example:

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

When will we start to use these rules?

We will not use these rules until we evaluate public comments and publish final rules in the **Federal Register**. All final rules we issue include an effective date. If we publish final rules, we will include a summary of relevant comments we received, responses to them, and an explanation of how we will apply the new rules.

³³ The procedures for processing claims in "prototype" States, including the instructions for expedited vocational development and documentation, are in the Prototype Operating Instructions Manual available at http://www.ssa.gov/disability/Documents/Prototype_Operating_Instructions.doc.

³⁴ See 20 CFR 404.1594 and 416.994.

³⁵ See 20 CFR 416.924.

²⁶ 20 CFR 404.1566(e) and 416.966(e).

²⁷ This includes when an adjudicator first receives a claim to process it. We would not require an adjudicator to make a reasonable effort to collect additional evidence if he or she could use this expedited process.

²⁸ See 20 CFR 404.1569a(c) and 416.969a(c).

Regulatory Procedures

Executive Order 12866, as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that this NPRM meets the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Thus, OMB reviewed it.

Regulatory Flexibility Act

We certify that this NPRM will not have a significant economic impact on a substantial number of small entities because it only affects individuals. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

Paperwork Reduction Act

This NPRM does not impose new reporting or recordkeeping requirements and is not subject to OMB clearance.

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

List of Subjects

20 CFR Part 404

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

20 CFR Part 416

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

Dated: September 7, 2011.

Michael J. Astrue, Commissioner of Social Security.

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

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

Subpart P—[Amended]

1. The authority citation for subpart P of part 404 is revised to read as follows:

Authority: Secs. 202, 205(a)–(b) and (d)–(h), 216(i), 221(a), (i), and (j), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a)–(b) and (d)–(h), 416(i),

421(a), (i), and (j), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189; sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

2. Amend § 404.1505 by revising the sixth sentence of paragraph (a) to read as follows:

§ 404.1505 Basic definition of disability.

(a) * * * If we find that you cannot do your past relevant work, we will use the same residual functional capacity assessment and your vocational factors of age, education, and work experience to determine if you can do other work (see § 404.1520(h) for an exception to this rule.).

3. Amend § 404.1520 by adding a new second sentence to paragraph (a)(4), by revising the last sentence of paragraph (a)(4)(iv), the last sentence of paragraph (a)(4)(v), the second sentence of paragraph (f), and by adding a new paragraph (h), to read as follows:

§ 404.1520 Evaluation of disability in general.

(a) * * *
(4) * * * See paragraph (h) of this section for an exception to this rule.
(iv) * * * (See paragraphs (f) and (h) of this section and § 404.1560(b)).
(v) * * * (See paragraphs (g) and (h) of this section and § 404.1560(c)).

(f) * * * (See paragraph (h) of this section and § 404.1560(b)). * * *

(h) Expedited process. If we do not find you disabled at the third step, and we do not have sufficient evidence about your past relevant work to make a finding at the fourth step, we may proceed to the fifth step of the sequential evaluation process. If we find that you can adjust to other work based solely on your age, education, and the same residual functional capacity assessment we made under paragraph (e), we will find that you are not disabled and will not make a finding about whether you can do your past relevant work at the fourth step. If we find that you may be unable to adjust to other work, we will assess your claim at the fourth step and make a finding about whether you can perform your past relevant work. (See paragraph (g) of this section and § 404.1560(c)).

4. Amend § 404.1545 by revising the first sentence of paragraph (a)(5)(ii) to read as follows:

§ 404.1545 Your residual functional capacity.

(a) * * *
(5) * * *

(ii) If we find that you cannot do your past relevant work, you do not have any past relevant work, or if we use the procedures in § 404.1520(h), we will use the same assessment of your residual functional capacity at step five of the sequential evaluation process to decide if you can adjust to any other work that exists in the national economy.

5. Amend § 404.1560 by adding a second sentence to paragraph (b) and revising the first two sentences of paragraph (c)(1) to read as follows:

§ 404.1560 When we will consider your vocational background.

(b) * * * See § 404.1520(h) for an exception to this rule.

(c) Other work. (1) If we find that your residual functional capacity does not enable you to do any of your past relevant work or if we use the procedures in § 404.1520(h), we will use the same residual functional capacity assessment when we decide if you can adjust to any other work. We will look at your ability to adjust to other work by considering your residual functional capacity and the vocational factors of age, education, and work experience, as appropriate in your case (see § 404.1520(h) for an exception to this rule).

6. Amend § 404.1565 by revising the second sentence of paragraph (b) to read as follows:

§ 404.1565 Your work experience as a vocational factor.

(b) * * * If you cannot give us all of the information we need, we may try, with your permission, to get it from your employer or other person who knows about your work, such as a member of your family or a co-worker.

7. Amend § 404.1569 by revising the third sentence to read as follows:

§ 404.1569 Listing of Medical-Vocational Guidelines in appendix 2.

* * * We apply these rules in cases where a person is not doing substantial gainful activity and is prevented by a severe medically determinable impairment from doing vocationally relevant past work (see § 404.1520(h) for an exception to this rule). * * *

8. Amend § 404.1594 by revising paragraph (f)(8) and adding a new paragraph (f)(9) to read as follows:

§ 404.1594 How we will determine whether your disability continues or ends.

* * * * *

(f) * * *

(8) If you are not able to do work you have done in the past, we will consider whether you can do other work given the residual functional capacity assessment made under paragraph (f)(7) of this section and your age, education, and past work experience. (See § 404.1594(f)(9) for an exception to this rule.) If you can, we will find that your disability has ended. If you cannot, we will find that your disability continues.

(9) We may proceed to the final step, described in paragraph (f)(8) of this section, if the evidence in your file about your past relevant work is not sufficient for us to make a finding under paragraph (f)(7) of this section about whether you can perform your past relevant work. If we find that you can adjust to other work based solely on your age, education, and residual functional capacity, we will find that you are no longer disabled, and we will not make a finding about whether you can do your past relevant work under paragraph (f)(7) of this section. If we find that you may be unable to adjust to other work, we will assess your claim under paragraph (f)(7) of this section and make a finding about whether you can perform your past relevant work.

* * * * *

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

Subpart I—[Amended]

9. The authority citation for subpart I of part 416 continues to read as follows:

Authority: Secs. 221(m), 702(a)(5), 1611, 1614, 1619, 1631(a), (c), (d)(1), and (p), and 1633 of the Social Security Act (42 U.S.C. 421(m), 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), (d)(1), and (p), and 1383b); secs. 4(c) and 5, 6(c)–(e), 14(a), and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, and 1382h note).

10. Amend § 416.905 by revising the last sentence of paragraph (a) to read as follows:

§ 416.905 Basic definition of disability.

(a) * * * If we find that you cannot do your past relevant work, we will use the same residual functional capacity assessment and your vocational factors of age, education, and work experience to determine if you can do other work (see § 416.920(h) for an exception to this rule).

* * * * *

11. Amend § 416.920 by adding a new second sentence to paragraph (a)(4), by revising the last sentence of paragraph (a)(4)(iv), the last sentence of paragraph (a)(4)(v), the second sentence of

paragraph (f), and by adding a new paragraph (h), to read as follows:

§ 416.920 Evaluation of disability in general.

(a) * * *

(4) * * * See paragraph (h) of this section for an exception to this rule.

(iv) * * * (See paragraphs (f) and (h) of this section and § 416.960(b)).

(v) * * * (See paragraphs (g) and (h) of this section and § 416.960(c)).

* * * * *

(f) * * * (See paragraph (h) of this section and § 416.960(b)). * * *

* * * * *

(h) *Expedited process.* If we do not find you disabled at the third step, and we do not have sufficient evidence about your past relevant work to make a finding at the fourth step, we may proceed to the fifth step of the sequential evaluation process. If we find that you can adjust to other work based solely on your age, education, and the same residual functional capacity assessment we made under paragraph (e), we will find that you are not disabled and will not make a finding about whether you can do your past relevant work at the fourth step. If we find that you may be unable to adjust to other work, we will assess your claim at the fourth step and make a finding about whether you can perform your past relevant work. (See paragraph (g) of this section and § 416.960(c)).

12. Amend § 416.945 by revising the first sentence of paragraph (a)(5)(ii) to read as follows:

§ 416.945 Your residual functional capacity.

(a) * * *

(5) * * *

(ii) If we find that you cannot do your past relevant work, you do not have any past relevant work, or if we use the procedures in § 416.920(h), and § 416.962 does not apply, we will use the same assessment of your residual functional capacity at step five of the sequential evaluation process to decide if you can adjust to any other work that exists in the national economy.

* * * * *

13. Amend § 416.960 by adding a second sentence to paragraph (b) and revising the first two sentences of paragraph (c)(1) to read as follows:

§ 416.960 When we will consider your vocational background.

* * * * *

(b) * * * See § 416.920(h) for an exception to this rule.

(c) *Other work.* (1) If we find that your residual functional capacity does not

enable you to do any of your past relevant work or if we use the procedures in § 416.920(h), we will use the same residual functional capacity assessment when we decide if you can adjust to any other work. We will look at your ability to adjust to other work by considering your residual functional capacity and the vocational factors of age, education, and work experience, as appropriate in your case (see § 416.920(h) for an exception to this rule).

* * * * *

14. Amend § 416.965 by revising the second sentence of paragraph (b) to read as follows:

§ 416.965 Your work experience as a vocational factor.

* * * * *

(b) * * * If you cannot give us all of the information we need, we may try, with your permission, to get it from your employer or other person who knows about your work, such as a member of your family or a co-worker.

* * *

15. Amend § 416.969 by revising the third sentence to read as follows:

§ 416.969 Listing of Medical-Vocational Guidelines in appendix 2 of subpart P of part 404 of this chapter.

* * * We apply these rules in cases where a person is not doing substantial gainful activity and is prevented by a severe medically determinable impairment from doing vocationally relevant past work (see § 416.920(h) for an exception to this rule). * * *

16. Amend § 416.987 by revising the first sentence of paragraph (b) to read as follows:

§ 416.987 Disability redeterminations for individuals who attain age 18.

* * * * *

(b) * * * When we redetermine your eligibility, we will use the rules for adults (individuals age 18 or older) who file new applications explained in §§ 416.920(c) through (h). * * *

* * * * *

17. Amend § 416.994 by revising paragraph (b)(5)(vii) and adding a new paragraph (b)(5)(viii) to read as follows:

§ 416.994 How we will determine whether your disability continues or ends, disabled adults.

* * * * *

(b) * * *

(5) * * *

(vii) If you are not able to do work you have done in the past, we will consider whether you can do other work given the residual functional capacity assessment made under paragraph (b)(5)(vi) of this section and your age,

education, and past work experience. (See § 416.994(b)(5)(viii) for an exception to this rule.) If you can, we will find that your disability has ended. If you cannot, we will find that your disability continues.

(viii) We may proceed to the final step, described in paragraph (b)(5)(vii) of this section, if the evidence in your file about your past relevant work is not sufficient for us to make a finding under paragraph (b)(5)(vi) of this section about whether you can perform your past relevant work. If we find that you can adjust to other work based solely on your age, education, and residual functional capacity, we will find that you are no longer disabled, and we will not make a finding about whether you can do your past relevant work under paragraph (b)(5)(vi) of this section. If we find that you may be unable to adjust to other work, we will assess your claim under paragraph (b)(5)(vi) of this section and make a finding about whether you can perform your past relevant work.

* * * * *

[FR Doc. 2011-23396 Filed 9-12-11; 8:45 am]

BILLING CODE 4191-02-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-R4-SFUND-2011-0574; FRL-9463-7]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of proposed rule.

SUMMARY: On July 15, 2011, EPA published a Notice of Intent to Delete and a direct final Notice of Deletion for the Higgs Road Landfill from the National Priorities List. The EPA is withdrawing the Notice of Intent to Delete due to an administrative error in processing the deletion notice. The online Federal Document Management System (FDMS) did not include required documents including the State of Florida's concurrence letter and the Final Closeout Report as required. The FDMS will be updated to include these documents.

After the administrative error is corrected on the intent to delete the Higgs Road Landfill Superfund Site from the National Priority List, EPA will re-publish a Notice of Intent to Delete in the **Federal Register**.

DATES: The proposed rule published on July 15, 2011 (76 FR 41751) is withdrawn as of September 13, 2011.

ADDRESSES:

Information Repositories:

Comprehensive information on the Site, as well as the comments that we received during the comment period, are available in docket EPA-R4-SFUND-0574, accessed through the <http://www.regulations.gov> Web site. Although listed in the docket index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at:

EPA Record Center, 61 Forsyth Street, SW., Atlanta, GA 30303. Hours: 8 a.m. to 4 p.m., Monday through Friday.
Jacksonville Public Library, 6886 103rd Street, Jacksonville, FL 32210.
Monday–Thursday: 10 a.m.–9 p.m.,
Friday & Saturday: 10 a.m.–6 p.m.,
Sunday: 1 p.m.–6 p.m.

FOR FURTHER INFORMATION CONTACT:

Scott Miller, Remedial Project Manager, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303, (404-562-9120), e-mail: miller.scott@epa.gov.

SUPPLEMENTARY INFORMATION:

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous Waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water Supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: August 30, 2011.

Gwendolyn Keyes Fleming,

Regional Administrator, Region 4.

Accordingly, the amendment to Table 1 of Appendix B to Part 300 to remove the entry “Higgs Road Landfill”, “Duval County, FL” is withdrawn as of September 13, 2011.

[FR Doc. 2011-23522 Filed 9-12-11; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[IB Docket No. 07-23; DA 11-1151]

Removal of Approved Non-U.S.-Licensed Space Stations From the Section 214 Exclusion List

AGENCY: Federal Communications Commission.

ACTION: Interpretation.

SUMMARY: In this document, the Federal Communications Commission's (Commission's) International Bureau (Bureau) adopts its proposal to remove from the Section 214 Exclusion List those non-U.S.-licensed space stations that have been allowed to enter the U.S. market for satellite services pursuant to the procedures adopted in the *DISCO II Order*.

DATES: Effective September 13, 2011.

FOR FURTHER INFORMATION CONTACT:

Jennifer Balatan or Howard Griboff, Policy Division, International Bureau, (202) 418-1460.

SUPPLEMENTARY INFORMATION: This is a summary of the Bureau's *Order*, adopted and released on June 30, 2011 (DA 11-1151). The full text of this document is available for inspection and copying during normal business hours in the Commission Reference Center, 445 12th Street, SW., Washington, DC 20554. The document is also available for download over the Internet at http://transition.fcc.gov/Daily_Releases/Daily_Business/2011/db0630/DA-11-1151A1.pdf. The complete text may also be purchased from the Commission's copy contractor, Best Copy and Printing, in person at 445 12th Street, SW., Room CY-B402, Washington, DC 20554, via telephone at (202) 488-5300, via facsimile at (202) 488-5563, or via e-mail at Commission@bcpweb.com.

Summary of the Order

On January 18, 2007, the Bureau released a *Public Notice* in IB Docket No. 07-23 (72 FR 9333-02, March 1, 2007), seeking comment on its proposal to further streamline the Section 214 authorization process by removing from the Section 214 Exclusion List those non-U.S.-licensed space stations that have been allowed to enter the U.S. market for satellite services pursuant to the procedures (DISCO II procedures) adopted in the *DISCO II Order* (62 FR 64167-01, December 4, 1997; as amended at 63 FR 6496-02, February 9, 1998). On June 30, 2011, the Bureau released this *Order* which adopts the proposal to remove from the Section 214