Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying Class E airspace extending upward from 700 feet above the surface at Mondell Field Airport, Newcastle, WY. Controlled airspace is necessary to accommodate aircraft using the RNAV (GPS) standard instrument approach procedures at Mondell Field Airport and would enhance the safety and management of aircraft operations at the airport. A minor airport name change would be made from Mondell Field to Mondell Field Airport, Newcastle, WY.

Class E airspace designations are published in paragraph 6005, of FAA Order 7400.9U, dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

The FAA has determined this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation; (1) Is not a "significant regulatory action" 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 this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, section 106, describes the authority for the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the 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 establishes additional controlled airspace at Mondell Field Airport, Newcastle, WY.

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 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, and effective September 15, 2010 is amended as follows:

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

* * * * *

ANM WY E5 Newcastle, WY [Modified]

Mondell Field Airport, WY
(Lat. 43°53′08″ N., long. 104°19′05″ W.)
Ellsworth AFB, SD
(Lat. 44°08′42″ N., long. 103°06′13″ W.)

That airspace extending upward from 700 feet above the surface within 4 miles northeast and 8.3 miles southwest of the Mondell Field Airport 154° and 334° bearings extending from 5.3 miles northwest to 16.1 miles southeast of the airport; that airspace extending upward from 1,200 feet above the surface bounded on the north by the north edge of V–86, on the east by a 45.6-mile radius of Ellsworth AFB, on the south by the north edge of V–26, on the west by a line 4.3 miles west of and parallel to the Mondell Field Airport 360° bearing; that airspace extending upward from 700 feet MSL bounded on the north by the north edge of V–26, on the east by a 45.6-mile radius of Ellsworth AFB, on the south by the south edge of V–26, on the west by a line 4.3 miles west of and parallel to the Mondell Field Airport 360° bearing.

Issued in Seattle, Washington, on April 6, 2011.

Christine Mellon,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2011–8743 Filed 4–11–11; 8:45 am]

BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA 2010–0044]

RIN 0960–AG89

How We Collect and Consider Evidence of Disability

AGENCY: Social Security Administration (SSA).

ACTION: Notice of proposed rulemaking.

SUMMARY: We propose to modify the requirement to recontact your medical source(s) first when we need to resolve an inconsistency or insufficiency in the evidence he or she provided. Depending on the nature of the inconsistency or insufficiency, there may be other, more appropriate sources from whom we could obtain the information we need. By giving adjudicators more flexibility in determining how best to obtain this information, we will be able to make a determination or decision on disability claims more quickly and efficiently in certain situations. Eventually, our need to recontact your medical source(s) in many situations will be significantly reduced as a result of our efforts to improve the evidence collection process through the increased utilization of Health Information Technology (HIT).

DATES: To be sure that we consider your comments, we must receive them by June 13, 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–2010–0044 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 that you submit your comments via the Internet. Please visit the Federal eRulemaking portal at *http://www.regulations.gov*. Use the *Search* function to find docket number SSA–2010–0044. The system will issue a tracking number to confirm your submission. You will not be able to view your comment immediately because we must post each comment manually. It may take up to a week for your comment to be viewable.

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

3. *Mail:* Mail 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: Brian Rudick, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–7102. 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:

Explanation of Changes

Sometimes the evidence we receive from your treating physician, psychologist, or other medical source is inadequate for us to determine whether you are disabled; that is, we either do not have sufficient evidence to determine whether you are disabled or if after weighing the evidence we determine we cannot reach a conclusion about whether you are disabled.

Our current regulations describe what actions we will take in these situations. Currently, we will first recontact your medical source to determine whether the additional information we need is readily available, unless we know from past experience that the source either cannot or will not provide the necessary findings. We will seek additional evidence or clarification from your medical source when the report from your medical source contains a conflict or ambiguity that must be resolved, does not contain all the necessary information, or does not appear to be based on medically acceptable clinical and laboratory diagnostic techniques. We may do this by requesting copies of your medical source's records, a new report, or a more detailed report from your medical source, including your treating source, or by telephoning your medical source. If the information we need is not readily available from your medical source, we may request additional medical records, ask you to undergo a consultative examination (CE) at our expense, or ask you or others for more information. Sections 404.1512(e), 404.1527(c), 416.912(e), and 416.927(c).

We are currently engaged in efforts to dramatically improve the evidence collection process, particularly as it pertains to obtaining records from your medical source(s). Through the increased utilization of HIT, we will be able to obtain medical records from your source(s) electronically in a readable and organized format. HIT will also enable our adjudicators to access your complete records upon their receipt of a claim for adjudication. By obtaining all of the records from your medical source(s) at the outset of a claim and in a format that will speed our review of the evidence, we will be able to significantly reduce the need to recontact your source(s) for additional records or clarification. HIT will also reduce the number of CEs we might otherwise need when information from your medical source(s) is inadequate for us to determine disability.

In the meantime, we propose to modify the requirement in §§ 404.1512(e) and 416.912(e) that we first recontact your medical source(s) when we need to resolve an inconsistency or insufficiency in the evidence he or she provided. Under our proposed rule, after we have made every reasonable effort to help you get medical reports from your medical sources,[1] we will determine the best way to resolve the inconsistency or insufficiency. We will do that by taking one or more of several actions, including recontacting your medical source(s) when we need to resolve an inconsistency or insufficiency in the evidence he or she provided.

Although we propose to eliminate the requirement that we recontact your medical source(s) first when we need to resolve an inconsistency or insufficiency in the evidence he or she provided, we expect that our adjudicators would continue to recontact your medical source(s) when we believe such recontact is the most effective and efficient way to resolve an inconsistency or insufficiency. For example, if we have a report from one of your medical sources that contains a functional assessment of your physical capacity for work, but no clinical or objective findings in support, we expect that the adjudicator would first contact that source to find out the reasons for his or her assessment. Similarly, when the medical evidence we receive from one of your medical sources contains an internal inconsistency about an issue relevant to our disability determination, we would also expect that our adjudicator would contact that source to resolve the inconsistency.

However, our adjudicative experience has shown that, in some cases, there are other, more effective, ways to obtain the additional information we need. It is sometimes inefficient and ineffective to require our adjudicators to first contact your medical source(s). For example, when your medical source(s) does not specialize in the area of the impairment you have alleged and we need more evidence about its current severity, we may supplement the evidence in your case record by obtaining a CE with a specialist (such as a pulmonologist) who can perform the type of examination we need in order to determine whether you are disabled under our rules.

In addition, there are times when issues revealed in the medical evidence are better clarified by someone other than your medical source(s). For example, if the medical evidence contains a reference that indicates you returned to work, it may be more appropriate to contact you to verify this information and to obtain any related information, such as your schedule, earnings, and job duties, rather than recontacting your medical source(s). The current requirement to recontact your medical source(s) first can sometimes cause a delay in the adjudication of your case.

There are situations where we need the flexibility to determine how best to resolve inconsistencies and insufficiencies in the evidence. This proposed change would give our adjudicators the discretion to determine the best way to address these issues and obtain the needed information more quickly and efficiently. In these situations, we would shorten case processing time and conserve resources.

This proposed change would not alter our rules in §§ 404.1512(d) and 416.912(d) that require us to make every reasonable effort to help you get medical reports from your medical sources when you give us permission to request the reports. Rather, the proposed change would apply only after we have made those reasonable efforts. In addition to removing the requirement to recontact medical sources first in all situations, we propose to reorganize and clarify our rules about how we would consider and obtain additional evidence so that these rules are easier to understand and apply. Specifically, we propose to combine the guidance in current §§ 404.1512(e), 404.1527(c), 416.912(e),

[1] Sections 404.1512(d) and 416.912(d) require us to "make every reasonable effort" to develop "your complete medical history for at least the 12 months preceding the month in which you file your application unless there is a reason to believe that development of an earlier period is necessary or unless you say that your disability began less than 12 months before you filed your application." *See* §§ 404.1512(d)(1) and 416.912(d)(1) for how we define "every reasonable effort."

and 416.927(c) in a new section, proposed §§ 404.1520b and 416.920b. In this new section, we will:

- Explain when we consider evidence to be "insufficient" or "inconsistent";
- Explain that if all the evidence we receive, including any medical opinion(s), is consistent and there is sufficient evidence for us to determine whether you are disabled, we will make a determination or decision based on that evidence;
- Explain that if any of the evidence in your case record, including any medical opinion(s), is inconsistent, we will weigh the relevant evidence and decide if we can determine whether you are disabled based on the evidence we have;
- Explain that if the evidence is consistent but we have insufficient evidence to determine whether you are disabled or if after weighing the evidence we determine we cannot reach a conclusion about whether you are disabled, we will determine the best way to resolve any inconsistency or insufficiency;
- Explain that the action(s) we take will depend on the nature of the inconsistency or insufficiency;
- List the action(s) we will take to resolve the inconsistency or insufficiency and explain that we may not take all of the actions listed;
- Explain that if we cannot resolve the inconsistency or insufficiency, we will make a determination or decision based on the evidence we have.

Because we are proposing to remove current §§ 404.1512(e), 404.1527(c), 416.912(e), and 416.927(c), we would redesignate the paragraphs that follow. We would revise cross-references in §§ 404.1512(b)(6), 404.1545(a)(3), 416.912(b)(6), and 416.945(a)(3) to reflect these redesignations. We would also add cross-references to proposed §§ 404.1520b and 416.920b in §§ 404.1519a, 404.1520, 404.1527, 416.919a, 416.920, and 416.927.

Current §§ 404.1512(f) and 416.912(f) (proposed redesignated §§ 404.1512(e) and 416.912(e)), state, "If the information we need is not readily available from the records of your medical treatment source, or we are unable to seek clarification from your medical source, we will ask you to attend one or more consultative examinations at our expense." The phrase "not readily available from the records of your medical treatment source" could be read to require recontact with your medical sources first, so we propose to revise this language to say that we may ask you to attend one or more consultative examinations at our expense. Similarly, we would revise the first sentence in current §§ 404.1519a(a)(1) and 416.919a(a)(1) (proposed redesignated §§ 404.1519a(a) and 416.919a(a)) because it could also be read to require recontact first.

We would also remove from the list of situations which may require a CE in §§ 404.1519a(b) and 416.919a(b) the example that indicates that we could not resolve the inconsistency or insufficiency by recontacting your medical source. We also propose to combine the guidance in current §§ 404.1519a(a)(2) and (b) and 416.919a(a)(2) and (b), because both of these paragraphs explain that we will use results from CEs to resolve inconsistencies and insufficiencies.

Other Changes

We propose to make a number of other editorial corrections and non-substantive changes to the current rules. We are proposing these changes for clarity and consistency and to correct minor grammatical errors. For example, we propose to revise some language from passive to active voice. Where the current rules refer to a "determination," we propose to add the term "or decision," as appropriate, to clarify that these regulations apply to determinations and decisions at all levels of our administrative review process.

Our current title II rules state, "you must furnish medical and other evidence * * * about your medical impairment(s) and, if material to the determination of whether you are blind or disabled, its effect on your ability to work on a sustained basis." Section 404.1512(a). Our current title XVI rules state, "If material to the determination whether you are blind or disabled, medical and other evidence must be furnished about the effects of your impairment(s) on your ability to work, or if you are a child, on your functioning, on a sustained basis." Section 416.912(a). We propose to remove the words "blind or" from these two sections because your ability to work is not material to a determination or decision of whether you have blindness under titles II and XVI of the Social Security Act. This change reflects our current policy and operational practice with respect to the evaluation of disability claims involving blindness.

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

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

When will we start to use these rules?

We will not use these rules until we evaluate the public comments we receive on them, determine whether they should be issued as final rules, and issue final rules in the **Federal Register**. If we publish final rules, we will explain in the preamble how we will apply them, and summarize and respond to the public comments. Until the effective date of any final rules, we will continue to use our current rules.

Regulatory Procedures

Executive Order 12866 as Supplemented by Executive Order 13563

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules meet the requirements for a significant regulatory action under Executive Order 12866 as supplemented by Executive Order 13563. Thus, they were reviewed by OMB.

Regulatory Flexibility Act

We certify that these proposed rules, if published in final, would not have a significant economic impact on a substantial number of small entities because they would affect only individuals. Accordingly, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These proposed rules do not create any new or affect any existing collections and, therefore, does not require Office of Management Budget approval under the Paperwork Reduction Act.

(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).

Michael J. Astrue,

Commissioner of Social Security.

For the reasons set out in the preamble, we propose to amend subpart P of part 404 and subpart I of part 416 of chapter III of title 20 Code of Federal Regulations 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 continues 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 § 404.1512 by:

a. Revising the third sentence of paragraph (a);

b. In paragraph (b)(6), removing the phrase "(see § 404.1527(f)(1)(ii));" and adding in its place the phrase ". See § 404.1527(e)(2) through (3).",

c. Removing paragraph (e),

e. Redesignating paragraph (f) as (e)

f. Revising the heading and first sentence of newly redesignated paragraph (e), and g. Redesignating paragraph (g) as (f).

The revisions read as follows:

§ 404.1512 Evidence.

(a) * * * This means that you must furnish medical and other evidence that we can use to reach conclusions about your medical impairment(s) and, if material to the determination of whether you are disabled, its effect on your ability to work on a sustained basis. * * *

* * * * *

(e) *Obtaining a consultative examination.* We may ask you to attend one or more consultative examinations at our expense. * * *

* * * * *

3. Amend § 404.1519a by

a. Redesignating paragraph (a)(1) as paragraph (a) and revising the newly redesignated paragraph (a),

b. Removing paragraph (a)(2),

b. Revising paragraph (b) introductory text,

e. Adding "or" after the semi-colon in paragraph (b)(3),

E. Removing paragraph (b)(4), and

f. Redesignating paragraph (b)(5) as (b)(4).

The revisions read as follows:

§ 404.1519a When we will purchase a consultative examination and how we will use it.

(a) *General.* If we cannot get the information we need from your medical sources, we may decide to purchase a consultative examination. See § 404.1512 for the procedures we will follow to obtain evidence from your medical sources and § 404.1520b for how we consider evidence. Before purchasing a consultative examination, we will consider not only existing medical reports, but also the disability interview form containing your allegations as well as other pertinent evidence in your file.

(b) *Situations which may require a consultative examination.* We may purchase a consultative examination to try to resolve an inconsistency in the evidence, or when the evidence as a whole is insufficient to allow us to make a determination or decision on your claim. Some examples of when we might purchase a consultative examination to secure needed medical evidence, such as clinical findings, laboratory tests, a diagnosis, or prognosis, include but are not limited to:

* * * * *

4. Amend § 404.1520 by adding a sentence to the end of paragraph (a)(3) to read as follows:

§ 404.1520 Evaluation of disability in general.

(a) * * *

(3) * * * See § 404.1520b.

* * * * *

5. Add § 404.1520b to read as follows:

§ 404.1520b How we consider evidence.

After we review all of the evidence relevant to your claim, including medical opinions (see § 404.1527), we make findings about what the evidence shows. In some situations, we may not be able to make these findings because the evidence in your case record is insufficient or inconsistent. We consider evidence to be insufficient when it does not contain all the information we need to make our determination or decision. We consider evidence to be inconsistent when it conflicts with other evidence, contains an internal conflict, is ambiguous, or when the medical evidence does not appear to be based on medically acceptable clinical or laboratory diagnostic techniques. If the evidence in your case record is insufficient or inconsistent, we may need to take additional actions, as we explain in paragraphs (b) and (c) of this section.

(a) If all of the evidence we receive, including all medical opinion(s), is consistent and there is sufficient evidence for us to determine whether you are disabled, we will make our determination or decision based on that evidence.

(b) If any of the evidence in your case record, including any medical opinion(s), is inconsistent, we will weigh the relevant evidence and see whether we can determine whether you are disabled based on the evidence we have.

(c) If the evidence is consistent but we have insufficient evidence to determine whether you are disabled or if after weighing the evidence we determine we cannot reach a conclusion about whether you are disabled, we will determine the best way to resolve the inconsistency or insufficiency. The action(s) we take will depend on the nature of the inconsistency or insufficiency. We will try to resolve the inconsistency or insufficiency by taking any one or more of the actions listed in paragraphs (c)(1) through (c)(4) of this section. We might not take all of the actions listed below. We will consider any additional evidence we receive together with the evidence we already have.

(1) We may recontact your treating physician, psychologist, or other medical source. We may choose not to seek additional evidence or clarification from a medical source if we know from experience that the source either cannot or will not provide the necessary evidence. If we obtain medical evidence over the telephone, we will send the telephone report to the source for review, signature, and return;

(2) We may request additional existing records (see § 404.1512);

(3) We may ask you to undergo a consultative examination at our expense (see §§ 404.1517 through 404.1519t); or

(4) We may ask you or others for more information.

(d) When there are inconsistencies in the evidence that we cannot resolve or when, despite efforts to obtain

additional evidence, the evidence is insufficient to determine whether you are disabled, we will make a determination or decision based on the evidence we have.

6. Amend § 404.1527 as follows:

a. Revise paragraph (b);

b. Remove paragraph (c);

c. Redesignate paragraphs (d) through (f) as (c) through (e);

d. In newly redesignated paragraph (c) remove "(d)(2)" and add in its place "(c)(2)";

e. In newly redesignated paragraph (c)(2) remove "(d)(2)(i) and (d)(2)(ii)" and add in its place "(c)(2)(i) and (c)(2)(ii)" and remove "(d)(3) through (d)(6)" and add in its place "(c)(3) through (c)(6)";

f. In newly redesignated paragraph (d)(3) remove "(e)(1) and (e)(2)" and add in its place "(d)(1) and (d)(2)";

g. In newly redesignated paragraph (e) remove "(a) through (e)" and add in its place "(a) through (d)";

h. In newly redesignated paragraph (e)(2)(ii) remove "(a) through (e)" and add in its place "(a) through (d)"; and

i. In newly redesignated paragraph (e)(2)(iii) remove "(a) through (e)" and add in its place "(a) through (d)".

The revision reads as follows:

§ 404.1527 Evaluating opinion evidence.

* * * * *

(b) *How we consider medical opinions.* In determining whether you are disabled, we will always consider the medical opinions in your case record together with the rest of the relevant evidence we receive. See § 404.1520b.

* * * * *

7. Amend § 404.1545 by revising the fifth sentence of paragraph (a)(3) to read as follows:

§ 404.1545 Your residual functional capacity.

(a) * * *

(3) * * * (*See* §§ 404.1512(d) through (e).) * * *

* * * * *

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

Subpart I—[Amended]

8. 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 1383(b); 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).

9. Amend § 416.912 by:

a. Revising the third sentence of paragraph (a),

b. In paragraph (b)(6), removing the phrase (see § 416.927(f)(1)(ii)); and adding in its place the phrase "See § 416.927(e)(2)–(3)",

c. By removing paragraph (e),

d. Redesignating paragraph (f) as (e),

e. Revising the heading and first sentence of the newly redesignated paragraph (e), and

f. Redesignating paragraph (g) as (f).

The revisions read as follows:

§ 416.912 Evidence.

(a) * * * If material to the determination whether you are disabled, medical and other evidence must be furnished about the effects of your impairment(s) on your ability to work, or if you are a child, on your functioning, on a sustained basis. * * *

* * * * *

(e) *Obtaining a consultative examination.* We may ask you to attend one or more consultative examinations at our expense. * * *

* * * * *

10. Amend § 416.919a by:

a. Redesignating paragraph (a)(1) as (a) and revising the newly redesignated paragraph (a),

b. Removing paragraph (a)(2),

c. Revising paragraph (b) introductory text,

d. Adding "or" after the semi-colon in paragraph (b)(3),

e. Removing paragraph (b)(4), and

f. Redesignating paragraph (b)(5) as (b)(4).

The revisions read as follows:

§ 416.919a When we will purchase a consultative examination and how we will use it.

(a) *General.* If we cannot get the information we need from your medical sources, we may decide to purchase a consultative examination. See § 416.912 for the procedures we will follow to obtain evidence from your medical sources and § 416.920b for how we consider evidence. Before purchasing a consultative examination, we will consider not only existing medical reports, but also the disability interview form containing your allegations as well as other pertinent evidence in your file.

(b) *Situations which may require a consultative examination.* We may purchase a consultative examination to try to resolve an inconsistency in the evidence or when the evidence as a whole is insufficient to support a determination or decision on your claim. Some examples of when we might purchase a consultative examination to secure needed medical evidence, such as clinical findings, laboratory tests, a diagnosis, or prognosis, include but are not limited to:

* * * * *

11. Amend § 416.920 by adding a sentence to the end of paragraph (a)(3) to read as follows:

§ 416.920 Evaluation of disability in general.

(a) * * *

(3) * * * See § 416.920b.

* * * * *

12. Add § 416.920b to read as follows:

§ 416.920b How we consider evidence.

After we review all of the evidence relevant to your claim, including medical opinions (see § 416.927), we make findings about what the evidence shows. In some situations, we may not be able to make these findings because the evidence in your case record is insufficient or inconsistent. We consider evidence to be insufficient when it does not contain all the information we need to make our determination or decision. We consider evidence to be inconsistent when it conflicts with other evidence, contains an internal conflict, is ambiguous, or when the medical evidence does not appear to be based on medically acceptable clinical or laboratory diagnostic techniques. If the evidence in your case record is insufficient or inconsistent, we may need to take additional actions, as we explain in paragraphs (b) and (c) of this section.

(a) If all of the evidence we receive, including all medical opinion(s), is consistent and there is sufficient evidence for us to determine whether you are disabled, we will make our determination or decision based on that evidence.

(b) If any of the evidence in your case record, including any medical opinion(s), is inconsistent, we will weigh the relevant evidence and see whether we can determine whether you are disabled based on the evidence we have.

(c) If the evidence is consistent but we have insufficient evidence to determine whether you are disabled or if after weighing the evidence we determine we cannot reach a conclusion about whether you are disabled, we will determine the best way to resolve the inconsistency or insufficiency. The action(s) we take will depend on the nature of the inconsistency or insufficiency. We will try to resolve the inconsistency or insufficiency by taking any one or more of the actions listed in paragraphs (c)(1) through (c)(4) of this section. We might not take all of the

actions listed below. We will consider any additional evidence we receive together with the evidence we already have.

(1) We may recontact your treating physician, psychologist, or other medical source. We may choose not to seek additional evidence or clarification from a medical source if we know from experience that the source either cannot or will not provide the necessary evidence. If we obtain medical evidence over the telephone, we will send the telephone report to the source for review, signature, and return;

(2) We may request additional existing records (see § 416.912);

(3) We may ask you to undergo a consultative examination at our expense (see §§ 416.917 through 416.919t); or

(4) We may ask you or others for more information.

(d) When there are inconsistencies in the evidence that we cannot resolve or when, despite efforts to obtain additional evidence, the evidence is insufficient to determine whether you are disabled, we will make a determination or decision based on the evidence we have.

13. Amend § 416.927 as follows:

a. Revise paragraph (b);

b. Remove paragraph (c);

c. Redesignate paragraphs (d) through (f) as (c) through (e);

d. In newly redesignated paragraph (c) remove "(d)(2)" and add in its place "(c)(2)";

e. In newly redesignated paragraph (c)(2) remove "(d)(2)(i) and (d)(2)(ii)" and add in its place "(c)(2)(i) and (c)(2)(ii)" and remove "(d)(3) through (d)(6)" and add in its place "(c)(3) through (c)(6)";

f. In newly redesignated paragraph (d)(3) remove "(e)(1) and (e)(2)" and add in its place "(d)(1) and (d)(2)";

g. In newly redesignated paragraph (e) remove "(a) through (e)" and add in its place "(a) through (d)";

h. In newly redesignated paragraph (e)(2)(ii) remove "(a) through (e)" and add in its place "(a) through (d)"; and

i. In newly redesignated paragraph (e)(2)(iii) remove "(a) through (e)" and add in its place "(a) through (d)".

The revision reads as follows:

§ 416.927 Evaluating opinion evidence.

* * * * *

(b) *How we consider medical opinions.* In determining whether you are disabled, we will always consider the medical opinions in your case record together with the rest of the relevant evidence we receive. See § 416.920b.

* * * * *

14. Amend § 416.945 by revising the fifth sentence of paragraph (a)(3) to read as follows:

§ 416.945 Your residual functional capacity.

(a) * * *

(3) * * * (*See* §§ 416.912(d) through (e).) * * *

* * * * *

[FR Doc. 2011–8388 Filed 4–11–11; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Chapter I

No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Bureau of Indian Affairs is announcing that the No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee will hold its sixth meeting in Albuquerque, New Mexico. The purpose of the meeting is to continue working on reports and recommendations to Congress and the Secretary as required under the No Child Left Behind Act of 2001.

DATES: The Committee's sixth meeting will begin at 8 a.m. on April 27, 2011, and end at 12 p.m. on April 29, 2011.

ADDRESSES: The meeting will be held at the National Indian Program Training Center, second floor, 1011 Indian School Road, NW., Albuquerque, New Mexico 87104.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Official, Michele F. Singer, Director, Office of Regulatory Affairs and Collaborative Action, Office of the Assistant Secretary—Indian Affairs, 1001 Indian School Road, NW., Suite 312, Albuquerque, NM 87104; telephone (505) 563–3805; fax (505) 563–3811.

SUPPLEMENTARY INFORMATION: The No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee was established to prepare and submit to the Secretary a catalog of the conditions at Bureau-funded schools, and to prepare reports covering: The school replacement and new construction needs at Bureau-funded school facilities; a formula for the equitable distribution of funds to address those needs; a list of major and minor renovation needs at those facilities; and a formula for equitable distribution of funds to address those needs. The reports are to be submitted to Congress and to the Secretary. The Committee also expects to draft proposed regulations covering construction standards for heating, lighting, and cooling in home-living (dormitory) situations.

The following items will be on the agenda:

- Review and approve February 2011 meeting summary;
- Reach consensus on unresolved issues in the draft report;
- Finalize draft report language and prepare for tribal consultation;
- Agree on a schedule, standard agenda and presentation material for tribal consultation sessions;
- Discuss and clarify next steps for synthesizing and sharing comments received from tribal consultation and highlighting key topics for final committee meeting; and
- Public comments.

Written comments may be sent to the Designated Federal Official listed in the **FOR FURTHER INFORMATION CONTACT** section above. All meetings are open to the public; however, transportation, lodging, and meals are the responsibility of the participating public.

Dated: April 5, 2011.

Paul Tsosie,

Chief of Staff, Assistant Secretary—Indian Affairs.

[FR Doc. 2011–8649 Filed 4–11–11; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 110 and 165

[Docket No. USCG–2010–1119]

RIN 1625–AA01; 1625–AA11

Superfund Site, New Bedford Harbor, New Bedford, MA: Anchorage Ground and Regulated Navigation Area

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend an existing anchorage ground which currently overlaps a pilot underwater cap ("pilot cap") in the U.S. Environmental Protection Agency's (EPA) New Bedford Harbor Superfund Site in New Bedford, MA. The Coast Guard also proposes to establish a regulated navigation area (RNA) prohibiting activities that disturb the