

L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 10d–48b, sec. 7902, 10b Stat. 31b3 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244, (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. Section 72.214, Certificate of Compliance (CoC) 1007 is revised to read as follows:

**§ 72.214 List of approved spent fuel storage casks.**

\* \* \* \* \*

Certificate Number: 1007.

Initial Certificate Effective Date: May 7, 1993.

Amendment Number 1 Effective Date: May 30, 2000.

Amendment Number 2 Effective Date: September 5, 2000.

SAR Submitted by: Pacific Sierra Nuclear Associates.

SAR Title: Final Safety Analysis Report for the Ventilated Storage Cask System.

Docket Number: 72–1007.

Certificate Expiration Date: May 7, 2013.

Model Number: VSC–24.

\* \* \* \* \*

Dated at Rockville, Maryland, this 25th day of May, 2000.

For the Nuclear Regulatory Commission.

**William D. Travers,**

*Executive Director for Operations.*

[FR Doc. 00–15541 Filed 6–21–00; 8:45 am]

**BILLING CODE 7590–01–P**

## **SOCIAL SECURITY ADMINISTRATION**

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

#### **[Regulations Nos. 4 and 16]**

**RIN 0960–AF17**

#### **Administrative Review Process; Prehearing and Posthearing Conferences**

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** We are proposing to amend a portion of our regulations on social security and supplemental security income which currently state that an administrative law judge (ALJ) may decide to hold a prehearing or posthearing conference in your case. We are proposing to amend these rules to provide that we may designate an attorney adviser in our Office of Hearings and Appeals (OHA) to conduct a formal prehearing or posthearing conference when requested by an ALJ. We are also proposing to amend our rules to include procedures to govern the informal prehearing conference that we may hold with you. We are proposing these rules in order to improve our hearings process by standardizing and increasing the efficiency of our procedures for holding prehearing and posthearing conferences.

**DATES:** To be sure your comments are considered, we must receive them no later than August 21, 2000.

**ADDRESSES:** Comments should be submitted to the Commissioner of Social Security, P.O. Box 17703, Baltimore, MD 21235–7703; sent by telefax to (410) 966–2830; sent by e-mail to [regulations@ssa.gov](mailto:regulations@ssa.gov); or delivered to the Office of Process and Innovation Management, Social Security Administration, L2109 West Low Rise, 6401 Security Boulevard, Baltimore, MD 21235–6401, between 8:00 A.M. and 4:30 P.M. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

#### **FOR FURTHER INFORMATION CONTACT:**

Georgia E. Myers, Regulations Officer, Office of Process and Innovation Management, Social Security Administration, L2109 West Low Rise, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–3632 or TTY 1–800–988–5906, for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778.

#### **SUPPLEMENTARY INFORMATION:**

## **Background**

We generally use a four step administrative review process to decide claims for Social Security benefits under title II of the Social Security Act (the Act) and for Supplemental Security Income (SSI) benefits under title XVI of the Act. If you are not satisfied with our initial determination, you may request that we reconsider it. If you are not satisfied with our reconsidered determination, you may request an ALJ hearing. If you are not satisfied with the ALJ's decision, you may request that the Appeals Council review it. Generally, you must complete these steps and receive our final decision before you may request judicial review of the decision in the Federal courts.

On August 30, 1999, we announced a prototype involving a combination of modifications to the procedures we follow in determining disability (64 FR 47218). At that time, we also announced that we were making several changes to improve the hearing step of the administrative review process. We noted that we were going to streamline case processing, make structural changes in the management organization of our hearing offices, and make improvements in our automation and data collection. We also noted that we would implement a “national workflow model” that combines prehearing activities, a standardized prehearing conference, and processing-time benchmarks for various tasks (64 FR at 47219).

We are making changes in the hearing process as part of our Hearings Process Improvement (HPI) initiative. Under HPI, we are trying to make our hearing process more timely, more efficient and more customer-focused. The report on this initiative is available as an SSA publication, “The Hearings Process Improvement Initiative: Delivering Better Service for the 21st Century” (SSA Pub. No. 01–016). We also made this report available on our Internet site at <http://www.ssa.gov/reports/hpi>.

Under our HPI initiative, we distinguish between informal and formal prehearing conferences. Informal conferences will be a relatively routine part of our prehearing activities. We will hold these conferences to develop additional evidence and information that may be needed to ensure that cases are ready for a hearing when they are assigned to an ALJ. We will hold formal prehearing conferences more rarely and only at the request of an ALJ.

We currently conduct developmental activities similar to those involved in the informal conferences under the Commissioner's general, administrative

authority to manage and direct the ALJ hearing process and to assign ALJs to cases. Under our current process, staff personnel in our hearing offices conduct a variety of prehearing activities, including working with claimants and their representatives, by telephone and in person, to develop additional evidence and information and to prepare the claim for a hearing.

We conduct all of the procedures in the administrative review process, including the ALJ hearing and any conferences we hold in connection with the hearing, in an informal, nonadversarial manner. The term "formal," as used in our HPI initiative and in these proposed rules to refer to certain conferences, is not intended to imply that we will conduct these conferences in an adversarial manner.

#### Explanation of Proposed Rules

We are proposing to amend our regulations at 20 CFR §§ 404.961 and 416.1461 to set forth the rules we will follow when we hold informal prehearing conferences. We believe that these informal conferences will standardize the best developmental practices our hearing offices currently use in the period before we appoint an ALJ to hold a hearing and decide a case.

Our hearing office staff may hold informal prehearing conferences with you or your representative for several reasons. We may hold an informal conference to decide if there is any existing evidence that we should get before the hearing. We may also hold an informal conference to clarify an issue or issues in your case. If you do not have a representative, we may also hold an informal conference to advise you about your right to representation and to determine if you want to get a representative. We expect that these informal conferences will be held by either attorney advisers or paralegal analysts in our hearing offices. We may hold these informal conferences instead of, or in addition to, any other activities that we do in our hearing offices to develop the evidence in your claim.

We will usually hold an informal prehearing conference by telephone. However, we may also hold the informal conference in person or by videoconference if we decide it is more efficient to do so. We may hold the conference with you, you and your representative, or just your representative. We will reach agreement with you, directly or through your representative, regarding the time, place and purpose of the conference. We may arrange a conference by telephone, in person, or in writing. At the conference, we may consider matters in addition to

those that were agreed to in arranging the conference, if the persons participating in the conference agree to consider the additional matters.

If you do not have a representative and you tell us at an informal conference that you want a representative, we will give you a list of groups in your community that can help you find a representative. If you do not wish to be represented, we will explain what that means to you. You can, of course, get a representative at any time after the conference, even if you have stated at the conference that you do not want a representative at your hearing. If we hold an informal conference and you do not have a representative, we will not use the conference to make any kind of agreements with you about your case.

We intend to record the information we get at the informal conference by a report of contact that we will include in your claims file. We may also record it by any other means that we decide accurately reflects the information.

We are also proposing in these rules to amend §§ 404.961 and 416.1461 to allow an attorney adviser, in certain circumstances, to hold any formal prehearing or posthearing conference that we might conduct in your case after it has been assigned to an ALJ. The management officials in the hearing office would designate an attorney adviser to hold a conference if you have appointed a representative, and the ALJ requests that we designate an attorney adviser to hold a prehearing or posthearing conference.

Under the HPI initiative, we are trying to improve how we prepare cases before they are assigned to an ALJ for a hearing, and to ensure that cases are ready for a hearing when they are assigned to an ALJ. However, we expect that there will still be occasions when the ALJ will decide that a formal prehearing conference should be held. Although we may use it to develop additional evidence or information, we expect that the primary purpose of the formal prehearing conference will be to clarify or narrow an issue or issues in the case.

We currently hold formal posthearing conferences infrequently, and expect to hold them less frequently under the HPI initiative, which should increase our ability to ensure that cases are ready for hearing when the hearing is held. However, we believe we should provide authority for management officials to designate an attorney adviser to hold a formal posthearing conference in instances in which the ALJ believes that such a conference would expedite the decision and requests the hearing office

to designate an attorney adviser to hold the conference.

Sections 404.961 and 416.1461 currently state that an ALJ may decide to hold a prehearing or posthearing conference to expedite the hearing or the decision, and that the ALJ will hold the conference. We are proposing in these rules to specify that, at an ALJ's request, an attorney adviser designated by a hearing office may hold a formal prehearing or posthearing conference. The attorney adviser designated by the hearing office to hold these formal prehearing or posthearing conferences may be an attorney adviser whose position in the hearing office is that of a Senior Attorney Adviser, or an attorney adviser who occupies the managerial position in the hearing office of Processing Group Supervisor or Hearing Office Director.

We have long interpreted the provisions of §§ 404.961 and 416.1461 as allowing a "designee" of the ALJ to conduct a prehearing or posthearing conference for the ALJ. However, under the procedures we are establishing, management officials in the hearing office will designate an attorney adviser to hold a prehearing or posthearing conference when an ALJ requests that an attorney adviser hold a formal conference. Thus, while the attorney adviser will conduct the prehearing or posthearing conference for the ALJ, the attorney adviser would not be the ALJ's designee.

We do not intend, however, that management officials in the hearing office will be able to designate an attorney adviser to hold a prehearing or posthearing conference if an ALJ has not requested that an attorney adviser hold a conference. The ALJ may personally hold a prehearing or posthearing conference any time the ALJ does not want an attorney adviser to hold the conference, or whenever the hearing office might decline to designate an attorney adviser to hold the conference.

Current §§ 404.961 and 416.1461 allow an ALJ to hold a prehearing or posthearing conference with an individual who does not have an appointed representative. Although it is generally our practice to hold a formal prehearing or posthearing conference only with a claimant's appointed representative, there are circumstances in which ALJs find it helpful to hold a conference with an individual who is not represented. This occurs most frequently when an unrepresented claimant who has previously not responded to our efforts to make contact arrives at the time and place we have scheduled for his or her hearing (in a notice of hearing mailed to the

individual's last known address). In these circumstances, and with the agreement of the claimant, the ALJ may postpone the hearing and hold a prehearing conference in order to talk with the individual about the available evidence and the question of representation.

We are not proposing in these rules to change the authority ALJs currently have to hold prehearing or posthearing conferences personally with an individual who does not have a representative. We believe there will always be some circumstances in which an ALJ can appropriately use that authority to facilitate the hearing or the decision. However, because an attorney adviser's duty of impartiality is not guaranteed to the same extent as that of an ALJ, we are proposing in these rules to specify that we will not designate an attorney adviser to hold a formal prehearing or posthearing conference with you if you are not represented. We believe that the different choices that individuals make about whether to appoint a representative warrant differences in our procedures for having attorney advisers hold formal prehearing and posthearing conferences, and that having different procedures will not result in unfair treatment of any claimants.

We are also proposing that the attorney adviser who conducts a formal prehearing or posthearing conference will have authority to reach agreements with your representative during a formal prehearing or posthearing conference. Any agreements made by the attorney adviser will be subject to approval by the ALJ. The proposed rules do not give the attorney adviser authority to take sworn testimony or to examine or cross-examine witnesses at a conference.

We will give you advance written notice of the time, place and purpose of any formal conference, including a conference conducted by telephone, unless you and any other parties to the hearing tell us in writing that you do not want written notice of the conference. We will mail any required written notice of the conference to you and your representative at least 7 days before the conference, unless we have already gotten the written notice to you in another way. We will provide written notice in advance of the conference even if, as will frequently be the case, the written notice confirms arrangements for the conference that we have already made with you by telephone. These proposed notice requirements clarify the existing notice requirements that apply under current §§ 404.961 and 416.1461 when an ALJ

decides that prehearing or posthearing conference should be held.

Current §§ 404.961 and 416.1461 do not specify how we may hold a prehearing or posthearing conference or how we will make a record of a conference. We are proposing in these rules to specify that we may hold a formal prehearing or posthearing conference by telephone, in person, or by videoconference. We intend that the formal conference will be tape recorded, or recorded in another manner that accurately reflects the information we get at the conference, in order to make a record of any agreements or actions resulting from the conference.

Sections 404.961 and 416.1461 currently provide that the ALJ will state all agreements and actions resulting from the conference in an order, and that any stated agreements and actions become binding parts of the hearing record if the parties to the hearing do not object. We are proposing to clarify these provisions to explain that the ALJ will issue an order about the conference only if the conference has resulted in one or more actions or agreements. We are also proposing to amend these rules to specify that any objections to an ALJ's order must be in writing and that the ALJ will rule on any objections to the order. These changes will standardize our procedures in this respect.

We expect that the changes we are proposing in these rules will increase our efficiency by standardizing the practices we follow when we hold informal prehearing conferences and any formal prehearing and posthearing conferences that we may need. The changes we are proposing will also increase our ability to treat individual claimants consistently.

The proposed changes will not adversely affect an individual's right to a hearing before an ALJ. Failure or refusal to participate in a prehearing conference is not now, and will not be under these proposed rules, a basis for dismissing a request for hearing. A request for hearing may be dismissed only under the circumstances specified in our regulations at 20 CFR §§ 404.957 and 416.1457. Similarly, failure or refusal to participate in a posthearing conference will not adversely affect your right to a hearing decision, which the ALJ is required to issue in accordance with §§ 404.953 and 416.1453.

#### Other Changes

We are also proposing to rewrite §§ 404.961 and 416.1461 in plain language. We are doing this consistent with the President's memorandum of June 1, 1998 (63 FR 31885), which states

that each agency should write its rules in plain language. By rewriting the rules in plain language, we do not intend to make any substantive changes in the existing provisions of §§ 404.961 and 416.1461, beyond those we are proposing to make here.

#### Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** on the Internet site for the Government Printing Office: <http://www.access.gpo.gov/su—docs/aces/aces140.html>. It is also available on the Internet site for SSA (i.e., SSA Online): <http://www.ssa.gov/>.

#### Clarity of the Proposed Rules

In addition to your substantive comments on these proposed rules, we invite your comments on how to make the rules 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 isn't 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?
- What else could we do to make the rules easier to understand?

#### Regulatory Procedures

##### *Executive Order 12866*

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Therefore, they were not subject to OMB review.

##### *Regulatory Flexibility Act*

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

##### *Paperwork Reduction Act*

These proposed regulations impose no new reporting or record keeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 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; 96.006, Supplemental Security Income)

## List of Subjects

### 20 CFR Part 404

Administrative practice and procedure, Aged, 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: June 9, 2000.

**Kenneth S. Apfel,**

*Commissioner of Social Security.*

For the reasons set out in the preamble, we propose to amend subpart J of part 404 and subpart N of part 416 of chapter III of Title 20 of the Code of Federal Regulations as set forth below:

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

### Subpart J—[Amended]

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

**Authority:** Secs. 201(j), 204(f), 205(a), (b), (d)–(h), and (j), 221, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 404(f), 405(a), (b), (d)–(h), and (j), 421, 425, and 902(a)(5)); 31 U.S.C. 3720A; sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note).

2. Section 404.961 is revised to read as follows:

#### § 404.961 Prehearing and posthearing conferences.

(a) *What are the types of conferences that we may hold?* We may hold a prehearing or posthearing conference. There are two types of prehearing conferences, an informal prehearing conference and a formal prehearing conference. There is only one type of posthearing conference, a formal posthearing conference. We explain the different types of conferences in the remaining paragraphs of this section.

(b) *When may we decide to hold an informal prehearing conference?* We may decide on our own, at your request, or at the request of any other party to the hearing, to hold an informal prehearing conference. We may hold an informal prehearing conference to clarify an issue or issues in your claim, or to decide whether more evidence is

needed. If you do not have a representative, we may hold an informal prehearing conference to tell you about your right to representation and to determine if you want a representative. We may also hold an informal prehearing conference for any other reason that we decide is appropriate.

(c) *How will we hold an informal prehearing conference?* (1) We may hold an informal prehearing conference with you or your representative, or with other parties to the hearing, or the representative(s) of those parties.

(2) If we hold an informal prehearing conference, we will generally hold it by telephone. However, we may also decide to hold the conference with you or your representative in person or by videoconference. We will reach agreement with you, directly or through your representative, regarding the time, place and purpose of the conference. We may arrange a conference by telephone, in person, or in writing. At the conference, we may consider matters in addition to those that were agreed to in arranging the conference, if the persons participating in the conference agree to consider the additional matters. We will record the information that we get at the conference by any method that we decide accurately reflects the information.

(3) If you do not have a representative, we will explain your right to representation, and give you a list of groups in your community that can give you help in finding a representative. If you state at the conference that you do not want a representative, you may still be represented if you decide at any time that you want a representative at your hearing.

(4) If you do not have a representative, we will not make any agreements with you at the informal prehearing conference.

(d) *When may we decide to hold a formal prehearing conference?* After we assign a case to an administrative law judge, the administrative law judge may decide on his or her own, at your request, or at the request of any other party to the hearing, to hold a formal prehearing conference. If the administrative law judge decides to hold a formal prehearing conference, he or she may conduct it, or may request that an attorney adviser designated by the hearing office conduct it. We will not designate an attorney adviser to hold a formal prehearing conference if you do not have a representative. Only an administrative law judge may hold a formal prehearing conference with you if you do not have a representative.

(e) *How will we hold a formal prehearing conference?* We will hold a formal prehearing conference by

telephone, in person, or by videoconference. The administrative law judge or the attorney adviser designated by the hearing office will determine the appropriate method. The administrative law judge or the attorney adviser designated by the hearing office will give you and any other parties to the hearing advance written notice of the time, place, and purpose of the conference, unless you and any other parties state in writing that you do not want written notice of the conference. We will mail a required written notice to you at least seven days before the date of the conference, unless we have already gotten the written notice to you in another way. The administrative law judge may enter into agreements with your representative at the conference. The attorney adviser designated by the hearing office may enter into agreements with your representative at the conference, which are subject to the approval of the administrative law judge under paragraph (g) of this section. We will make a record of the formal prehearing conference by any method that we decide accurately reflects the information we get at the conference.

(f) *May we consider other matters at the formal prehearing conference?* At the formal prehearing conference, the administrative law judge, or an attorney adviser designated by the hearing office to hold the conference, may consider matters in addition to the ones that we stated in the notice, if you and the other parties to the hearing agree in writing.

(g) *What will we do after a formal prehearing conference?* If we hold a formal prehearing conference that results in one or more agreements or actions, the administrative law judge will issue an order to state all of the agreements and actions that resulted from the conference. If an attorney adviser designated by the hearing office has held the conference, any agreements made by the attorney adviser are subject to approval by the administrative law judge. The agreements and actions in the administrative law judge's order will become binding on all the parties to the hearing and be made part of the hearing record, unless you or another party to the hearing objects in writing to the administrative law judge's order and the administrative law judge rules favorably on your objection.

(h) *When will we hold a posthearing conference?* If the administrative law judge decides that it is necessary, he or she may hold a posthearing conference. If the administrative law judge decides to hold a posthearing conference, he or she may conduct it, or may request that it be conducted by an attorney adviser designated by the hearing office. If we hold a posthearing conference, we will

apply the rules in paragraphs (e) through (g) of this section.

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

**Subpart N—[Amended]**

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

**Authority:** Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b); 31 U.S.C. 3720A.

4. Section 416.1461 is revised to read as follows:

**§ 416.1461 Prehearing and posthearing conferences.**

(a) *What are the types of conferences that we may hold?* We may hold a prehearing or posthearing conference. There are two types of prehearing conferences, an informal prehearing conference and a formal prehearing conference. There is only one type of posthearing conference, a formal posthearing conference. We explain the different types of conferences in the remaining paragraphs of this section.

(b) *When may we decide to hold an informal prehearing conference?* We may decide on our own, at your request, or at the request of any other party to the hearing, to hold an informal prehearing conference. We may hold an informal prehearing conference to clarify an issue or issues in your claim, or to decide whether more evidence is needed. If you do not have a representative, we may hold an informal prehearing conference to tell you about your right to representation and to determine if you want a representative. We may also hold an informal prehearing conference for any other reason that we decide is appropriate.

(c) *How will we hold an informal prehearing conference?* (1) We may hold an informal prehearing conference with you or your representative, or with other parties to the hearing, or the representative(s) of those parties.

(2) If we hold an informal prehearing conference, we will generally hold it by telephone. However, we may also decide to hold the conference with you or your representative in person or by videoconference. We will reach agreement with you, directly or through your representative, regarding the time, place and purpose of the conference. We may arrange a conference by telephone, in person, or in writing. At the conference, we may consider matters in addition to those that were agreed to in arranging the conference, if the persons participating in the conference agree to consider the additional matters. We will

record the information that we get at the conference by any method that we decide accurately reflects the information.

(3) If you do not have a representative, we will explain your right to representation, and give you a list of groups in your community that can give you help in finding a representative. If you state at the conference that you do not want a representative, you may still be represented if you decide at any time that you want a representative.

(4) If you do not have a representative, we will not make any agreements with you at the informal prehearing conference.

(d) *When may we decide to hold a formal prehearing conference?* After we assign a case to an administrative law judge, the administrative law judge may decide on his or her own, at your request, or at the request of any other party to the hearing, to hold a formal prehearing conference. If the administrative law judge decides to hold a formal prehearing conference, he or she may conduct it, or may request that an attorney adviser designated by the hearing office conduct it. We will not designate an attorney adviser to hold a formal prehearing conference if you do not have a representative. Only an administrative law judge may hold a formal prehearing conference with you if you do not have a representative.

(e) *How will we hold a formal prehearing conference?* We will hold a formal prehearing conference by telephone, in person, or by videoconference. The administrative law judge or the attorney adviser designated by the hearing office will determine the appropriate method. The administrative law judge or the attorney adviser designated by the hearing office will give you and any other parties to the hearing advance written notice of the time, place, and purpose of the conference, unless you and any other parties state in writing that you do not want written notice of the conference. We will mail a required written notice to you at least seven days before the date of the conference, unless we have already gotten the written notice to you in another way. The administrative law judge may enter into agreements with your representative at the conference. The attorney adviser designated by the hearing office may enter into agreements with your representative at the conference, which are subject to the approval of the administrative law judge under paragraph (g) of this section. We will make a record of the formal prehearing conference by any method that we decide accurately reflects the information we get at the conference.

(f) *May we consider other matters at the formal prehearing conference?* At the formal prehearing conference, the administrative law judge, or an attorney adviser designated by the hearing office to hold the conference, may consider matters in addition to the ones that we stated in the notice, if you and the other parties to the hearing agree in writing.

(g) *What will we do after a formal prehearing conference?* If we hold a formal prehearing conference that results in one or more agreements or actions, the administrative law judge will issue an order to state all of the agreements and actions that resulted from the conference. If an attorney adviser designated by the hearing office has held the conference, any agreements made by the attorney adviser are subject to approval by the administrative law judge. The agreements and actions in the administrative law judge's order will become binding on all the parties to the hearing and be made part of the hearing record, unless you or another party to the hearing objects in writing to the administrative law judge's order and the administrative law judge rules favorably on your objection.

(h) *When will we hold a posthearing conference?* If the administrative law judge decides that it is necessary, he or she may hold a posthearing conference. If the administrative law judge decides to hold a posthearing conference, he or she may conduct it, or may request that it be conducted by an attorney adviser designated by the hearing office. If we hold a posthearing conference, we will apply the rules in paragraphs (e) through (g) of this section.

Dated: June 9, 2000.

**Kenneth S. Apfel,**

*Commissioner of Social Security.*

[FR Doc. 00-15645 Filed 6-21-00; 8:45 am]

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**ENVIRONMENTAL PROTECTION  
AGENCY**

**40 CFR Part 60**

[FRL-6717-4]

**Approval and Promulgation of State  
Plans for Designated Facilities and  
Pollutants; Colorado, Montana, South  
Dakota, Utah, Wyoming; Control of  
Emissions From Existing Hospital/  
Medical/Infectious Waste Incinerators**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to approve the Colorado, Montana, South Dakota,