International Trade, (202) 863–6567.
Legal Aspects: Elif Eroglu, Office of International Trade, (202) 325–0277.

SUPPLEMENTARY INFORMATION:

Background

On January 19, 2006, the United States and the Sultanate of Oman (the ''Parties'') entered into the U.S.-Oman Free Trade Agreement (''OFTA'' or ''Agreement''). The provisions of the OFTA were adopted by the United States with the enactment of the United States-Oman Free Trade Agreement Implementation Act (the ''Act''), Public Law 109–283, 120 Stat. 1191 (19 U.S.C. 3805 note), on September 26, 2006. Section 206 of the Act requires that regulations be prescribed as necessary pending the President issuing a proclamation to implement the Agreement.

Following Presidential Proclamation 8332, CBP published on January 6, 2011, CBP Dec. 11–01 in the **Federal Register** (76 FR 697), setting forth interim amendments to implement the preferential tariff treatment and customs-related provisions of the OFTA. In order to provide transparency and facilitate their use, the majority of the OFTA implementing regulations set forth in CBP Dec. 11–01 were included within new subpart P in part 10 of the CBP regulations (19 CFR part 10). However, in those cases in which OFTA implementation was more appropriate in the context of an existing regulatory provision, the OFTA regulatory text was incorporated in an existing part within the CBP regulations. For a detailed description of the pertinent provisions of the Agreement and of the OFTA implementing regulations, please see CBP Dec. 11–01.

Although the interim regulatory amendments were promulgated without prior public notice and comments procedures and took effect on January 6, 2011, CBP Dec. 11–01 provided for the submission of public comments that would be considered before adopting the interim regulations as a final rule. The prescribed comment period closed on March 7, 2011.

Discussion of Comment Received in Response to CBP Dec. 11–01

One favorable response was received to the solicitation of comments on the interim rule set forth in CBP Dec. 11–01 which recommended that the government have more free trade agreements like the OFTA.

Conclusion

Accordingly, CBP believes that the interim regulations published as CBP Dec. 11–01 should be adopted as a final rule without change.

Executive Order 12866

This document is not a regulation or rule subject to the provisions of Executive Order 12866 of September 30, 1993 (58 FR 51735, October 1993), because it pertains to a foreign affairs function of the United States and implements an international agreement, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866.

Regulatory Flexibility Act

CBP Dec. 11–01 was issued as an interim rule rather than a notice of proposed rulemaking because CBP had determined that the interim regulations involve a foreign affairs function of the United States pursuant to section 553(a)(1) of the Administrative Procedure Act. Because no notice of proposed rulemaking was required, the provisions of the Regulatory Flexibility Act, as amended (5 U.S.C. 601 *et seq.*), do not apply to this rulemaking. Accordingly, this final rule is not subject to the regulatory analysis requirements or other requirements of 5 U.S.C. 603 and 604.

Paperwork Reduction Act

The collections of information in these regulations are under review by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1651–0117. Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and an individual is not required to respond to, a collection of information unless it displays a valid OMB control number.

The collections of information in these regulations are in §§ 10.863, 10.864, 10.881, and 10.884. This information is required in connection with claims for preferential tariff treatment and for the purpose of the exercise of other rights under the OFTA and the Act and will be used by CBP to determine eligibility for a tariff preference or other rights or benefits under the OFTA and the Act. The likely respondents are business organizations including importers, exporters and manufacturers.

The estimated average annual burden associated with the collection of information in this final rule is 0.2 hours per respondent or recordkeeper.

Signing Authority

This document is being issued in accordance with § 0.1(a)(1) of the CBP regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain customs revenue functions.

List of Subjects

19 CFR Part 10

Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements.

19 CFR Part 24

Accounting, Customs duties and inspection, Reporting and recordkeeping requirements.

19 CFR Part 162

Administrative practice and procedure, Customs duties and inspection, Reporting and recordkeeping requirements.

19 CFR Part 163

Administrative practice and procedure, Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements.

19 CFR Part 178

Reporting and recordkeeping requirements.

Amendments to the CBP Regulations

■ Accordingly, the interim rule amending parts 10, 24, 162, 163, and 178 of the CBP regulations (19 CFR parts 10, 24, 162, 163, and 178), which was published at 76 FR 697 on January 6, 2011, is adopted as a final rule without change.

Alan D. Bersin,
Commissioner, U.S. Customs and Border Protection.

Approved: October 18, 2011.

Timothy E. Skud,
Deputy Assistant Secretary of the Treasury.

[FR Doc. 2011–27310 Filed 10–20–11; 8:45 am]
BILLING CODE 9111–14–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA–2007–0092]

RIN 0960–AG72

Amendments to Procedures for Certain Determinations and Decisions

AGENCY: Social Security Administration.

ACTION: Final Rules.

SUMMARY: We are revising the procedures for how claimants who receive fully favorable revised determinations based on prehearing case reviews or fully favorable attorney advisor decisions may seek further

review. We are also revising our procedure to provide that we will notify claimants who receive partially favorable determinations based on prehearing case reviews that an administrative law judge (ALJ) will still hold a hearing unless all parties to the hearing tell us in writing that we should dismiss the hearing request. These changes will simplify our administrative review process and free up scarce administrative resources that we can better use to reduce the hearings-level case backlog.

DATES: These final rules are effective on November 21, 2011.

FOR FURTHER INFORMATION CONTACT: Joshua Silverman, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 594–2128. 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

In most cases, we decide claims for benefits using an administrative review process that consists of four levels: initial determination, reconsideration, hearing, and appeal. 20 CFR 404.900 and 416.1400. We make an initial determination at the first level. A claimant who is dissatisfied with the initial determination may request reconsideration.[1] A claimant dissatisfied with the reconsidered determination may request a hearing before an ALJ. Finally, if dissatisfied with the ALJ's decision, a claimant may request that the Appeals Council review that decision.[2] After a claimant has completed these administrative steps and received our final decision, he or she may request judicial review of the final decision in Federal district court.

We handle requests for ALJ hearings in several ways. At the hearing level, most claimants receive a decision from an ALJ.[3] An ALJ may hold a hearing and issue a fully favorable, partially favorable, or unfavorable decision. An ALJ may also issue a decision without holding an oral hearing if the claimant and any other parties waive their right to appear at a hearing or if the decision is fully favorable.

There are two other ways we may issue a favorable determination or decision without holding a hearing. A State disability determination service or an agency component may issue a fully or partially favorable revised determination under the prehearing case review process in 20 CFR 404.941 and 416.1441. In addition, an attorney advisor may issue a fully favorable decision under the attorney advisor process in 20 CFR 404.942 and 416.1442. These processes help us adjudicate cases pending at the hearing level more quickly while preserving claimants' right to a hearing before an ALJ.

Prehearing Case Review

The prehearing case review process allows us to refer a case back to the component that issued the determination under review. That component decides whether to revise its determination and issue a fully or partially favorable revised determination. We may conduct a prehearing case review if:

1. We receive additional evidence;
2. There is an indication that additional evidence is available;
3. There is a change in the law or regulations; or
4. There is an error in the file or some other indication that the prior determination may be revised.

20 CFR 404.941(b), 416.1441(b).

Our current regulations state that if we issue a fully favorable revised determination, we notify the claimant and all other parties that the ALJ will dismiss the hearing request unless a party requests that the hearing proceed. The claimant or other party must make this request in writing within 30 days after the date we mail the notice of the revised determination.

If we issue a partially favorable revised determination, we notify the claimant and all other parties that we will continue with the ALJ hearing unless the claimant and all other parties agree to dismiss the hearing request. We do not specify how the claimant and all other parties must tell us that they agree to dismiss this hearing request.

Prehearing Decisions by Attorney Advisors

Attorney advisors in our Office of Disability Adjudication and Review may conduct specific prehearing proceedings and, if appropriate, make fully favorable decisions based on the record. Attorney advisors may conduct prehearing proceedings under circumstances similar to those under which we conduct prehearing case reviews. 20 CFR 404.942(b) and 416.1442(b).

Under our current rules, if an attorney advisor issues a fully favorable decision, we wait 30 days before we dismiss the hearing request. We created the 30-day period to allow a claimant or other party time to ask us to proceed with the hearing.

Changes

Our adjudicative experience shows that claimants who receive a fully favorable determination or decision rarely ask us to continue with a hearing. In fact, claimants may be confused by a notice dismissing their request for a hearing several weeks after they received a fully favorable determination or decision on their claim. As a result, we spent administrative resources: (1) Processing the dismissals of requests for hearing because we had to wait until the 30-day period ended before we dismissed the request for a hearing; (2) answering claimants' questions; and (3) explaining what the dismissal notice meant.

Changing our procedures will both simplify the administrative review process and free scarce administrative resources that we will better use to reduce the hearings backlog.

Therefore, we are revising the way claimants can obtain further review of fully favorable and partially favorable prehearing case review determinations and fully favorable attorney advisor decisions. These changes preserve a claimant's right to have an ALJ hearing, even when we have already issued a fully favorable determination or decision.

Whenever a claimant or other party seeks further review of a favorable determination or decision, we will continue to consider the entire case record including the determination or decision. Further review of a favorable determination or decision may result in a determination or decision that is less favorable or unfavorable to a claimant.

Revised Procedures for Prehearing Case Reviews

If we issue a fully favorable revised determination in the prehearing case review process, an ALJ will dismiss the

[1] For disability claims, ten States participate in a ''prototype'' test under 20 CFR 404.906 and 416.1406. In these States, we eliminated the reconsideration step of the administrative review process. Claimants and other parties who are dissatisfied with the initial determinations on their disability cases may request a hearing before an ALJ. The ten States are: Alabama, Alaska, California (Los Angeles North and West Branches), Colorado, Louisiana, Michigan, Missouri, New Hampshire, New York, and Pennsylvania.

[2] We define the words ''determination'' and ''decision'' in 20 CFR 404.901 and 416.1401. At the initial and reconsideration levels of the administrative review process, we issue ''determinations.'' ALJs issue ''decisions,'' as may the Appeals Council when it reviews an ALJ's decision.

[3] An ALJ may also send the case to the Appeals Council with a recommended decision or dismiss a request for a hearing. 20 CFR 404.953(c), 404.957, 416.1453(d), and 416.1457.

request for a hearing soon after the reviewing component issues the fully favorable determination. The notice accompanying the ALJ's order of dismissal will advise all parties that if they disagree with the revised determination, they have 60 days from the date they receive the notice to request that the ALJ vacate the dismissal. The ALJ will extend the 60-day time limit if a party making a request shows that he or she had good cause for missing the deadline. If a party timely requests that the ALJ vacate the dismissal, the ALJ will vacate the dismissal, reinstate the request for a hearing, and offer all parties an opportunity for a hearing.

If we issue a partially favorable determination in the prehearing case review process, an ALJ will proceed to hold a hearing unless all parties to the hearing tell us in writing that they agree to dismiss the hearing request. If we receive a written statement(s) agreeing to a dismissal before an ALJ mails a notice of his or her decision, we will dismiss the request for a hearing.

We include these changes in final sections 404.941, 404.960, 416.1441, and 416.1460. In response to a public comment, we are adopting final regulatory language that differs from the language we proposed, as we discuss in more detail below.

Revised Procedures for Attorney Advisor Prehearing Decisions

If an attorney advisor issues a fully favorable decision, we will consider the decision to be a hearing-level decision, and we will not issue a notice of dismissal of the hearing request. The notice of the attorney advisor's decision will state that if a party to the hearing disagrees with the attorney advisor's decision for any reason, the party must request that an ALJ reinstate the request for a hearing within 60 days of the date he or she receives notice of the decision. The ALJ will extend the 60-day time limit if the party making the request shows that he or she had good cause for missing the deadline. If a party timely requests that the ALJ reinstate the request for a hearing, the ALJ will reinstate the request for a hearing and offer all parties to the hearing an opportunity for a hearing. We will process the fully favorable attorney advisor's decision while the hearing is pending.

We include these changes in final sections 404.942 and 416.1442. In response to a public comment, we are adopting final regulatory language that differs from the language we proposed, as we discuss in more detail below.

Other Changes

We are changing ''wholly favorable'' to ''fully favorable'' in final sections 404.941, 404.948, 416.1441, and 416.1448. We also are making additional changes for clarity in final sections 404.948, 404.960, 416.1448, and 416.1460. These minor changes will make the language in these sections consistent with other related sections but will not alter their meaning.

Finally, we are rescinding Social Security Ruling (SSR) 97–2p today in a separate notice in the **Federal Register** because we are incorporating some of the policies from SSR 97–2p and revising others in these final rules.

Public Comments

We published a notice of proposed rulemaking (NPRM) in the **Federal Register** on July 22, 2010, and we gave the public 60 days to comment on the NPRM. 75 FR 42639. We received one comment during this period. We carefully read and considered it. It is available for public viewing at *http://www.regulations.gov*. Because the comment was long, we have summarized and paraphrased it. We have tried to summarize the commenter's views accurately and to respond to the significant issues raised by the commenter that were within the scope of these rules.

Comment: The commenter supported our proposed policy revisions, but stated that the proposed regulatory text was not easy enough to understand. The commenter asserted that the NPRM violated section 504 of the Rehabilitation Act of 1973 [4] because the proposed regulatory language was above the 12th grade reading level and some of the complex regulatory language was ''not understandable for many applicants and beneficiaries who have disabilities.'' The commenter suggested that we clarify the regulatory text by shortening certain sentences and avoiding long introductory clauses.

Response: We adopted the comment. We are working to improve the clarity of our regulations and appreciate the commenter's suggestions. In response to the commenter's suggestions, we shortened and reorganized text in final sections 404.941(d)–(e), 404.942(d), 404.960(a)–(b), 416.1441(d)–(e), 416.1442(d), and 416.1460(a)–(b).

However, we disagree with the commenter that our proposed rules would violate section 504 of the Rehabilitation Act. While section 504 and its implementing regulations require Federal agencies to communicate effectively with the public, they do not require Federal agencies to publish regulations at a specific reading level.

[4] 29 U.S.C. 794.

We are also taking steps to communicate effectively with claimants and beneficiaries through our notices and by other means. We created an Office of Open Government to improve the clarity, tone, and readability of notices to ensure that we communicate effectively with the public. Each person to whom these final rules apply will receive a notice written in accordance with our notice standards. The notice will advise him or her of our determination or decision, of the options available if he or she wishes further review of that determination or decision, and of the time limits that apply to those options.

Comment: The commenter suggested that we revise proposed 20 CFR 404.960(a) and 416.1460(a) to clarify that the Appeals Council will notify the claimant in writing whether or not it vacates a dismissal of a request for a hearing. The commenter stated that the proposed language in these sections did not discuss whether the Appeals Council would notify the claimant if it did not vacate a dismissal of a request for a hearing.

Response: We agree with the commenter that our proposed regulatory language was unclear on these processes and are adopting language in final sections 404.960(a) and 416.1460(a) that differs from the proposed language. These sections now clarify that, if the claimant files a request for review, the Appeals Council will notify the claimant about whether it granted or denied the request to vacate the dismissal. This final rule will also apply to ALJs when a claimant asks an ALJ to vacate a dismissal.

The Appeals Council may also consider whether to vacate a dismissal on its own motion- that is, without any request from a claimant- under 20 CFR 404.969 and 416.1469. We are clarifying that the Appeals Council will notify a claimant that it used its own motion review authority only if it decides to vacate a dismissal. The Appeals Council will not notify a claimant when it decides not to vacate a dismissal based on own motion review because it is not taking any action, and the claimant has not requested the review.

Comment: The commenter suggested that we be consistent in the manner we present our standard of good cause. Specifically, the commenter suggested that we define ''good cause'' in proposed 20 CFR 404.960(a) and 416.1460(a) by referencing our rules in 20 CFR 404.911 and 416.1411. The

commenter noted that we refer to the good cause definition in 20 CFR 404.911 and 416.1411 when we mention good cause in proposed 20 CFR 404.941(d) and 416.1441(d).

Response: We agree with the commenter that our proposed regulatory language could have been clearer. However, we are not adopting the comment that we revise the rules to refer to the good cause criteria in 20 CFR 404.911 and 416.1411. Under our current policy, we consider each reason a claimant gives for making a request to vacate an order of dismissal on its own merit. Generally, we will vacate the order of dismissal if the claimant shows that the premise on which the ALJ or the Appeals Council based the dismissal order was erroneous. To clarify that point and to avoid confusion about the applicability of the good cause criteria in sections 404.911 and 416.1411, we are removing the words ''good cause'' from final sections 404.960(a) and 416.1460(a). Therefore, under these final rules, if you wish to request that the ALJ or the Appeals Council vacate a dismissal of a request for a hearing, you must do so within 60 days of the date you receive notice of the dismissal, and you must state why our dismissal of the request for a hearing was erroneous. This change is consistent with our current policy and clarifies that we may vacate a dismissal of a hearing request when a claimant shows us that the dismissal order was erroneous.

Comment: The commenter asked us to revise the regulatory text about how long a claimant had to request that an ALJ reinstate a request for a hearing under proposed 20 CFR 404.941(d), 404.942(d), 416.1441(d), and 416.1442(d). We proposed that a claimant must respond to us within 60 days after receiving notice of the fully favorable determination or decision. The commenter asked that we include a date certain in our notices for any required action instead of requiring claimants to calculate when the 60 days end. The commenter suggested specific regulatory language, including that a claimant ''may add 5 days to the deadline to allow for mailing time. The notice will provide the date by which you must ask.''

Response: We did not adopt the commenter's suggested language. We state in these final rules that a claimant who wants an ALJ to reinstate a hearing request must file his or her request ''within 60 days of the date you receive notice'' of the dismissal or decision in final sections 404.941(d), 404.942(d), 416.1441(d), and 416.1442(d). We use this approach throughout our regulations. Our current rules already define ''date you receive notice'' to mean ''5 days after the date on the notice, unless you show us that you did not receive it within the 5-day period'' in 20 CFR 404.901 and 416.1401.

We did not adopt the suggested regulatory language to include a ''date certain'' by which a claimant must act based on 5 days for mailing time because our regulations acknowledge that a claimant may not receive the notice within this timeframe. In these instances, we allow the claimant to show us that he or she did not actually receive the notice within 5 days after the date on the notice.

Comment: The commenter supported our proposal to specify in proposed 20 CFR 404.941(e) and 416.1441(e) that all parties to a partially favorable determination in the prehearing case review process must make their requests in writing if they want the ALJ to dismiss the request for a hearing. The commenter suggested that we specify that requests be in writing when parties appeal fully favorable determinations and decisions in 20 CFR 404.941(d), 404.942(d), 416.1441(d), and 416.1442(d).

Response: We adopted this comment. Our prior rules in these sections required that the requests be in writing, and this is not a change in our policy.

Regulatory Procedures

Executive Order 12866, as Supplemented by Executive Order 13563

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

Regulatory Flexibility Act

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

Paperwork Reduction Act

These final rules do not impose any new reporting or recordkeeping requirements and are 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; 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: October 12, 2011.

Michael J. Astrue,

Commissioner of Social Security.

For the reasons set forth in the preamble, we are amending title 20 of the Code of Federal Regulations part 404 subpart J and part 416 subpart N 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, 223(i), 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, 423(i), 425, and 902(a)(5)); 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); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 2. Amend § 404.941 by revising paragraphs (c), (d), and (e) to read as follows:

§ 404.941 Prehearing case review.

* * * * *

(c) *Notice of a prehearing revised determination.* If we revise the determination in a prehearing case review, we will mail a written notice of the revised determination to all parties at their last known addresses. We will state the basis for the revised determination and advise all parties of the effect of the revised determination on the request for a hearing.

(d) *Effect of a fully favorable revised determination.* If the revised determination is fully favorable to you, we will tell you in the notice that an administrative law judge will dismiss the request for a hearing. We will also tell you that you or another party to the hearing may request that the administrative law judge vacate the dismissal and reinstate the request for a hearing if you or another party to the

hearing disagrees with the revised determination for any reason. If you wish to make this request, you must do so in writing and send it to us within 60 days of the date you receive notice of the dismissal. If the request is timely, an administrative law judge will vacate the dismissal, reinstate the request for hearing, and offer you and all parties an opportunity for a hearing. The administrative law judge will extend the time limit if you show that you had good cause for missing the deadline. The administrative law judge will use the standards in § 404.911 to determine whether you had good cause.

(e) *Effect of a partially favorable revised determination.* If the revised determination is partially favorable to you, we will tell you in the notice what was not favorable. We will also tell you that an administrative law judge will hold the hearing you requested unless you and all other parties to the hearing agree in writing to dismiss the request for a hearing. An administrative law judge will dismiss the request for a hearing if we receive the written statement(s) agreeing to dismiss the request for a hearing before an administrative law judge mails a notice of his or her hearing decision.

■ 3. Amend § 404.942 by revising paragraphs (d), (e) introductory text, (e)(1), and (f)(3) to read as follows:

§ 404.942 Prehearing proceedings and decisions by attorney advisors.

* * * * *

(d) *Notice of a decision by an attorney advisor.* If an attorney advisor issues a fully favorable decision under this section, we will mail a written notice of the decision to all parties at their last known addresses. We will state the basis for the decision and advise all parties that they may request that an administrative law judge reinstate the request for a hearing if they disagree with the decision for any reason. Any party who wants to make this request must do so in writing and send it to us within 60 days of the date he or she receives notice of the decision. The administrative law judge will extend the time limit if the requestor shows good cause for missing the deadline. The administrative law judge will use the standards in § 404.911 to determine whether there is good cause. If the request is timely, an administrative law judge will reinstate the request for a hearing and offer all parties an opportunity for a hearing.

(e) *Effect of an attorney advisor's decision.* An attorney advisor's decision under this section is binding unless—

(1) You or another party to the hearing submits a timely request that an administrative law judge reinstate the request for a hearing under paragraph (d) of this section;

* * * * *

(f) * * *

(3) Make the decision of an attorney advisor under paragraph (d) of this section subject to review by the Appeals Council if the Appeals Council decides to review the decision of the attorney advisor anytime within 60 days after the date of the decision under § 404.969.

* * * * *

■ 4. Amend § 404.948 by revising the second sentence of paragraph (a), and paragraph (b)(1)(ii), to read as follows:

§ 404.948 Deciding a case without an oral hearing before an administrative law judge.

(a) *Decision fully favorable.* * * * The notice of the decision will state that you have the right to an oral hearing and to examine the evidence on which the administrative law judge based the decision.

(b) * * *

(1) * * *

(ii) You live outside the United States, you do not inform us that you wish to appear, and there are no other parties who wish to appear.

* * * * *

■ 5. Revise § 404.960 to read as follows:

§ 404.960 Vacating a dismissal of a request for a hearing before an administrative law judge.

(a) Except as provided in paragraph (b) of this section, an administrative law judge or the Appeals Council may vacate a dismissal of a request for a hearing if you request that we vacate the dismissal. If you or another party wish to make this request, you must do so within 60 days of the date you receive notice of the dismissal, and you must state why our dismissal of your request for a hearing was erroneous. The administrative law judge or Appeals Council will inform you in writing of the action taken on your request. The Appeals Council may also vacate a dismissal of a request for a hearing on its own motion. If the Appeals Council decides to vacate a dismissal on its own motion, it will do so within 60 days of the date we mail the notice of dismissal and will inform you in writing that it vacated the dismissal.

(b) If you wish to proceed with a hearing after you received a fully favorable revised determination under the prehearing case review process in § 404.941, you must follow the procedures in § 404.941(d) to request that an administrative law judge vacate his or her order dismissing your request for a hearing.

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

Subpart N—[Amended]

■ 6. 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); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 7. Amend § 416.1441 by revising paragraphs (c), (d), and (e) to read as follows:

§ 416.1441 Prehearing case review.

* * * * *

(c) *Notice of a prehearing revised determination.* If we revise the determination in a prehearing case review, we will mail a written notice of the revised determination to all parties at their last known addresses. We will state the basis for the revised determination and advise all parties of the effect of the revised determination on the request for a hearing.

(d) *Effect of a fully favorable revised determination.* If the revised determination is fully favorable to you, we will tell you in the notice that an administrative law judge will dismiss the request for a hearing. We will also tell you that you or another party to the hearing may request that the administrative law judge vacate the dismissal and reinstate the request for a hearing if you or another party to the hearing disagrees with the revised determination for any reason. If you wish to make this request, you must do so in writing and send it to us within 60 days of the date you receive notice of the dismissal. If the request is timely, an administrative law judge will vacate the dismissal, reinstate the request for a hearing, and offer you and all parties an opportunity for a hearing. The administrative law judge will extend the time limit if you show that you had good cause for missing the deadline. The administrative law judge will use the standards in § 416.1411 to determine whether you had good cause.

(e) *Effect of a partially favorable revised determination.* If the revised determination is partially favorable to you, we will tell you in the notice what was not favorable. We will also tell you that an administrative law judge will hold the hearing you requested unless you and all other parties to the hearing agree in writing to dismiss the request for a hearing. An administrative law judge will dismiss the request for a hearing if we receive the written statement(s) agreeing to dismiss the request for a hearing before an

administrative law judge mails a notice of his or her hearing decision.

■ 8. Amend § 416.1442 by revising paragraphs (d), (e) introductory text, (e)(1), and (f)(3) to read as follows:

§ 416.1442 Prehearing proceedings and decisions by attorney advisors.

* * * * *

(d) *Notice of a decision by an attorney advisor.* If an attorney advisor issues a fully favorable decision under this section, we will mail a written notice of the decision to all parties at their last known addresses. We will state the basis for the decision and advise all parties that they may request that an administrative law judge reinstate the request for a hearing if they disagree with the decision for any reason. Any party who wants to make this request must do so in writing and send it to us within 60 days of the date he or she receives notice of the decision. The administrative law judge will extend the time limit if the requestor shows good cause for missing the deadline. The administrative law judge will use the standards in § 416.1411 to determine whether there is good cause. If the request is timely, an administrative law judge will reinstate the request for a hearing and offer all parties an opportunity for a hearing.

(e) *Effect of an attorney advisor's decision.* An attorney advisor's decision under this section is binding unless—

(1) You or another party to the hearing submits a timely request that an administrative law judge reinstate the request for a hearing under paragraph (d) of this section;

* * * * *

(f) * * *

(3) Make the decision of an attorney advisor under paragraph (d) of this section subject to review by the Appeals Council if the Appeals Council decides to review the decision of the attorney advisor anytime within 60 days after the date of the decision under § 416.1469.

* * * * *

■ 9. Amend § 416.1448 by revising the second sentence of paragraph (a), and paragraph (b)(1)(ii), to read as follows:

§ 416.1448 Deciding a case without an oral hearing before an administrative law judge.

(a) *Decision fully favorable.* * * * The notice of the decision will state that you have the right to an oral hearing and to examine the evidence on which the administrative law judge based the decision.

(b) * * *

(1) * * *

(ii) You live outside the United States, you do not inform us that you wish to appear, and there are no other parties who wish to appear.

* * * * *

■ 10. Revise § 416.1460 to read as follows:

§ 416.1460 Vacating a dismissal of a request for a hearing before an administrative law judge.

(a) Except as provided in paragraph (b) of this section, an administrative law judge or the Appeals Council may vacate a dismissal of a request for a hearing if you request that we vacate the dismissal. If you or another party wish to make this request, you must do so within 60 days of the date you receive notice of the dismissal, and you must state why our dismissal of your request for a hearing was erroneous. The administrative law judge or Appeals Council will inform you in writing of the action taken on your request. The Appeals Council may also vacate a dismissal of a request for a hearing on its own motion. If the Appeals Council decides to vacate a dismissal on its own motion, it will do so within 60 days of the date we mail the notice of dismissal and will inform you in writing that it vacated the dismissal.

(b) If you wish to proceed with a hearing after you received a fully favorable revised determination under the prehearing case review process in § 416.1441, you must follow the procedures in § 416.1441(d) to request that an administrative law judge vacate his or her order dismissing your request for a hearing.

[FR Doc. 2011–27236 Filed 10–20–11; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–357]

Schedules of Controlled Substances: Temporary Placement of Three Synthetic Cathinones Into Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final Order.

SUMMARY: The Administrator of the Drug Enforcement Administration (DEA) is issuing this final order to temporarily schedule three synthetic cathinones under the Controlled Substances Act (CSA) pursuant to the temporary scheduling provisions of 21 U.S.C. 811(h). The substances are 4-methyl-N-methylcathinone (mephedrone), 3,4-methylenedioxy-N-methylcathinone (methylone), and 3,4-methylenedioxypyrovalerone (MDPV). This action is based on a finding by the Administrator that the placement of these synthetic cathinones and their salts, isomers, and salts of isomers into Schedule I of the CSA is necessary to avoid an imminent hazard to the public safety. As a result of this order, the full effect of the CSA and its implementing regulations including criminal, civil and administrative penalties, sanctions and regulatory controls of Schedule I substances will be imposed on the manufacture, distribution, possession, importation, and exportation of these synthetic cathinones.

DATES: *Effective Date:* This Final Order is effective on October 21, 2011.

FOR FURTHER INFORMATION CONTACT: Imelda L. Paredes, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone (202) 307–7165.

SUPPLEMENTARY INFORMATION:

Background

The Comprehensive Crime Control Act of 1984 (Pub. L. 98–473), which was signed into law on October 12, 1984, amended section 201 of the CSA (21 U.S.C. 811) to give the Attorney General the authority to temporarily place a substance into Schedule I of the CSA for one year without regard to the requirements of 21 U.S.C. 811(b) if he finds that such action is necessary to avoid imminent hazard to the public safety. 21 U.S.C. 811(h); 21 CFR 1308.49. If proceedings to control a substance are initiated under 21 U.S.C. 811(a)(1), the Attorney General may extend the temporary scheduling up to an additional six months. 21 U.S.C. 811(h)(2). Where the necessary findings are made, a substance may be temporarily scheduled in Schedule I if it is not listed in any other schedule under section 202 of the CSA (21 U.S.C. 812) or if there is no exemption or approval in effect under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) for the substance. 21 U.S.C. 811(h)(1). The Attorney General has delegated his authority under 21 U.S.C. 811 to the Administrator of DEA. 28 CFR 0.100.

Section 201(h)(4) of the CSA (21 U.S.C. 811(h)(4)) requires the Administrator to notify the Secretary of Health and Human Services of her intention to temporarily place a substance into Schedule I of the CSA.[1]

[1] Because the Secretary of Health and Human Services has delegated to the Assistant Secretary for

Continued