

be certified as a "lead CDQ observer", an observer must meet the following requirements.

(1) A "lead CDQ observer" on a catcher/processor using trawl gear or a mothership must have completed two observer cruises (contracts) and sampled at least 100 hauls on a catcher/processor using trawl gear or a mothership.

(2) A "lead CDQ observer" on a catcher vessel using trawl gear must have completed two observer cruises (contracts) and sampled at least 50 hauls on a catcher vessel using trawl gear.

(3) A "lead CDQ observer" on a vessel using nontrawl gear must have completed two observer cruises (contracts) of at least 10 days each and sampled at least 60 sets on a vessel using nontrawl gear.

(4) A "lead CDQ observer" in a shoreside processing plant must have observed at least 30 days in a shoreside processing plant.

\* \* \* \* \*

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## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Part 404

[Regulations No. 4]

RIN 0960-AE83

#### Federal Old-Age, Survivors and Disability Insurance; Determining Disability and Blindness; Extension of Expiration Dates for Several Body System Listings

**AGENCY:** Social Security Administration.

**ACTION:** Final rule.

**SUMMARY:** The Social Security Administration (SSA) adjudicates claims at the third step of its sequential process for evaluating disability using the Listing of Impairments (the listings) under the Social Security and supplemental security income (SSI) programs. This rule extends the dates on which several body system listings will no longer be effective. We have made no revisions to the medical criteria in these listings; they remain the same as they now appear in the Code of Federal Regulations. These extensions will ensure that we continue to have medical evaluation criteria in the listings to adjudicate claims for disability based on impairments in these body systems at step three of our sequential evaluation process.

**EFFECTIVE DATE:** This regulation is effective June 4, 1998.

**FOR FURTHER INFORMATION CONTACT:** Acting Regulations Officer, Social

Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-3632. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213.

**SUPPLEMENTARY INFORMATION:** We use the listings in appendix 1 (Listing of Impairments) to subpart P of part 404 at the third step of the sequential evaluation process to evaluate claims filed by adults and individuals under age 18 for benefits based on disability under the Social Security and SSI programs. The listings are divided into parts A and B. We use the criteria in part A to evaluate impairments of adults. We use the criteria in part B first to evaluate impairments of individuals under age 18. If those criteria do not apply, then the medical criteria in part A will be used.

When we published revised listings in 1985 and subsequently, we indicated that medical advances in disability evaluation and treatment and program experience would require that the listings be periodically reviewed and updated. Accordingly, we established dates ranging from 3 to 8 years on which the various body system listings would no longer be effective unless extended by the Secretary of Health and Human Services or revised and promulgated again. Effective March 31, 1995, the authority to issue regulations was transferred to the Commissioner of Social Security by section 102 of Public Law 103-296, the Social Security Independence and Program Improvements Act of 1994.

In this final rule, we are extending the dates on which several body system listings will no longer be effective to July 1, 1999. These body system listings are: Growth Impairment (100.00), Special Senses and Speech (2.00 and 102.00), Multiple Body Systems (110.00), Neurological (11.00 and 111.00), and Immune System (14.00 and 114.00).

We last published final rules setting forth the current expiration date for the Multiple Body Systems and the Immune System on July 2, 1993 (58 FR 36008). We last extended the dates on which the other body system listings would no longer be effective in final rules published as follows:

*December 6, 1993 (58 FR 64121):* Special Senses and Speech and Neurological.

*December 6, 1996 (61 FR 64615):* Growth Impairment.

We believe that the requirements in these listings are still valid for our program purposes. Specifically, if we find that an individual has an impairment that meets the statutory

duration requirement and also meets or is medically equivalent in severity to an impairment in the listings or functionally equivalent to the listings in SSI claims based on disability filed by individuals under age 18, we will find that the individual is disabled at the third step of the sequential evaluation process. Nevertheless, we have decided to review, over the next 12 months, the need to revise these listings and have, therefore, decided to extend the dates on which each of these listings will no longer be effective to July 1, 1999.

### Regulatory Procedures

Pursuant to section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5), as amended by section 102 of Public Law 103-296, SSA follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures in this case. Good cause exists because this regulation only extends the date on which these body system listings will no longer be effective. It makes no substantive changes to the listings. The current regulations expressly provide that the listings may be extended, as well as revised and promulgated again. Therefore, opportunity for prior comment is unnecessary, and we are issuing this regulation as a final rule.

In addition, we find good cause for dispensing with the 30-day delay in the effective date of a substantive rule, provided for by 5 U.S.C. 553(d). As explained above, we are not making any substantive changes in these body system listings. However, without an extension of the expiration dates for these listings, we will lack regulatory guidelines for assessing impairments in these body systems at the third step of the sequential evaluation processes after the current expiration dates of the listings. In order to ensure that we continue to have regulatory criteria for assessing impairments under these listings, we find that it is in the public interest to make this rule effective upon publication.

### Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that this rule does not meet

the criteria for a significant regulatory action under Executive Order 12866. Thus, it was not subject to OMB review.

#### *Regulatory Flexibility Act*

We certify that this regulation will not have a significant economic impact on a substantial number of small entities.

Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

#### *Paperwork Reduction Act*

This regulation imposes no reporting/recordkeeping requirements necessitating clearance by OMB.

(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 in 20 CFR Part 404**

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

Dated: May 27, 1998.

**Kenneth S. Apfel,**

*Commissioner of Social Security.*

For the reasons set forth in the preamble, part 404, subpart P, chapter III of title 20 of the Code of Federal Regulations is amended 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) and (i), 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) and (i), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104-193, 110 Stat. 2105, 2189.

2. Appendix 1 to subpart P of part 404 is amended by revising items 1, 3, 11, 12, and 15 of the introductory text before Part A to read as follows:

##### **Appendix 1 to Subpart P—Listing of Impairments**

\* \* \* \* \*

1. Growth Impairment (100.00): July 1, 1999.

\* \* \* \* \*

3. Special Senses and Speech (2.00 and 102.00): July 1, 1999.

\* \* \* \* \*

11. Multiple Body Systems (110.00): July 1, 1999.

12. Neurological (11.00 and 111.00): July 1, 1999.

\* \* \* \* \*

15. Immune System (14.00 and 114.00): July 1, 1999.

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#### **DEPARTMENT OF TRANSPORTATION**

##### **Research and Special Programs Administration**

##### **49 CFR Parts 107, 171, 172, 173, 174, 175, 176, 177**

[Notice No. 98-6]

##### **Hazardous Materials: Formal Interpretation of Regulations**

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Formal interpretation of regulations.

**SUMMARY:** This document publishes a formal interpretation of the Hazardous Materials Regulations (HMR) concerning the responsibilities of a carrier when accepting hazardous materials for transportation in commerce. This interpretation is being published in order to facilitate better public understanding and awareness of the HMR.

**EFFECTIVE DATE:** June 4, 1998.

**FOR FURTHER INFORMATION CONTACT:** Frazer C. Hilder, Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590-00001; telephone 202-366-4400.

**SUPPLEMENTARY INFORMATION:** As part of its implementation of the Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, RSPA issues the Hazardous Materials Regulations (HMR), 49 CFR parts 171-180. From time to time, RSPA's Chief Counsel issues formal interpretations of the HMR. These interpretations generally involve multimodal issues and are coordinated with the other DOT agencies which, together with RSPA, enforce the HMR: Federal Aviation Administration, Federal Highway Administration, Federal Railroad Administration, and United States Coast Guard. This document publishes a Chief Counsel's interpretation concerning the responsibilities of a carrier when accepting hazardous materials for transportation in commerce. This interpretation addresses issues raised in a letter by Mr. E.A. Altemos, of HMT

Associates, and is consistent with an August 19, 1997 written response to Mr. Altemos by RSPA's Associate Administrator for Hazardous Materials Safety.

In addition to these infrequent formal interpretations by RSPA's Chief Counsel, RSPA's Office of Hazardous Materials Standards provides information and informal clarifications of the HMR on an ongoing basis, through (1) a telephonic information center (1-800-467-4922) to answer oral questions and (2) informal written interpretations or clarifications in response to written inquiries. RSPA's formal interpretations and informal letter clarifications (and additional information concerning the HMR) are also available through the Hazmat Safety Homepage at "http://hazmat.dot.gov." In addition, some of RSPA's interpretations and clarifications may be reproduced or summarized in selected trade publications.

Further information concerning the availability of informal guidance and interpretations of the HMR is set forth in 49 CFR 107.14. RSPA believes that publication of its interpretations should promote a better understanding of the HMR and improve compliance with the HMR.

Issued in Washington, DC, on May 28, 1998.

**Judith S. Kaleta,**

*Chief Counsel.*

[Int. No. 98-1]

##### **Background**

Mr. E.A. Altemos, HMT Associates, requested clarification of requirements in the HMR concerning an air carrier's acceptance of packages containing hazardous materials. This inquiry concerned only the carrier's responsibilities relating to hazardous materials offered by another person, and not a carrier's transportation of its own materials or products. (For information on an air carrier's transportation of its own company materials, or "COMAT," see "COMAT FACTS" in RSPA's January 1998 Safety Alert, available on the Hazmat Safety Homepage.)

Although Mr. Altemos's question was posed in the context of air transportation, the HMR requirements discussed in RSPA's interpretation apply to carriers by all modes of transportation.

##### **Interpretation**

Basic requirements in the HMR set forth in 49 CFR 171.2(a) and (b), and applicable to carriers in all modes of transportation, are that no person may accept a hazardous material for transportation in commerce unless \* \* \* the hazardous material is properly classed, described, packaged, marked, labeled, and in condition for shipment as required or