Customs Service regarding what country abbreviations are acceptable for purposes of compliance with the marking statute. Customs notes that it is incorrect to abbreviate the word ''concentrate'' to ''conc'' when disclosing the origin of juice concentrate since the ultimate purchaser will not unmistakably identify ''conc'' as an abbreviation for the word ''concentrate.''

Summary

Imported fruit juice concentrate which is imported into the U.S. and used in the production of concentrated or reconstituted fruit juice is not substantially transformed after undergoing further processing in the U.S. Accordingly, all such imported concentrate is subject to the country of origin marking requirements of 19 U.S.C. 1304, and 19 CFR Part 134. Processors may use ''major supplier marking'' in preparing labels for containers of juice made with imported concentrate. If a processor obtains 75 percent or more of the imported concentrate used in a particular lot from ten or fewer countries, only those countries need be revealed. The full name of the country of origin must be used unless Customs has authorized abbreviations which unmistakably indicate the country of origin of the concentrate to the ultimate purchaser.

Drafting Information

The principal author of this document was David E. Cohen, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

Date: September 17, 1997.

Stuart P. Seidel,

Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 97–25134 Filed 9–22–97; 8:45 am]

BILLING CODE 4820–02–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

RIN 0960–AE58

Administrative Review Process, Testing Elimination of the Fourth Step of Administrative Review in the Disability Claim Process (Request for Review by the Appeals Council)

ACTION: Final rules.

SUMMARY: We are amending our rules to establish authority to test elimination of the final step in the administrative review process used in determining claims for Social Security and Supplemental Security Income (SSI) benefits based on disability. Under the final rules, the right of appeal for a claimant who is included in the test procedures and who is dissatisfied with the decision of an administrative law judge (ALJ) will be to file a civil action in Federal district court, rather than to request the Appeals Council to review the decision. We are testing procedures that eliminate the request for Appeals Council review in furtherance of the Plan for a New Disability Claim Process that former Commissioner of Social Security Shirley S. Chater approved in September 1994. Unless specified, all other regulations relating to the disability determination process and the administrative review process remain unchanged.

EFFECTIVE DATE: September 23, 1997.

FOR FURTHER INFORMATION CONTACT: Harry J. Short, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–6243. For information on eligibility or claiming benefits, call our national toll-free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION:

Background

The Social Security Administration (SSA) currently uses a four-step process in deciding claims for Social Security benefits under title II of the Social Security Act (the Act) and for SSI benefits under title XVI of the Act. Claimants who are not satisfied with the initial determination on their claims may request reconsideration. Claimants who are not satisfied with the reconsidered determination may request a hearing before an ALJ, and claimants who are dissatisfied with an ALJ's decision may request review by the Appeals Council. Claimants who have completed these four steps, and who are dissatisfied with the final decision, may request judicial review of the decision by filing a civil action in Federal district court. 20 CFR 404.900 and 416.1400.

SSA's Plan for a New Disability Claim Process (59 FR 47887, September 19, 1994) anticipates establishment of a redesigned, two-step process for deciding Social Security and SSI claims based on disability. The redesign plan anticipates that the process for determining disability can be significantly improved by strengthening the steps of the process in which we make initial determinations and provide dissatisfied claimants an opportunity for a hearing before an ALJ, and by eliminating the reconsideration step and the step in which claimants request the Appeals Council to review the decisions of ALJs.

In 20 CFR 404.906 and 416.1406 (60 FR 20023, April 24, 1995), we have established authority to test, singly and in combination, several model procedures for modifying the disability claims process. Under that authority, we are testing, in isolation from other possible changes, a modification of the initial determination step in which a single decisionmaker, rather than a team composed of a disability examiner and a medical consultant, makes the initial determination of disability. In addition, under authority established in 20 CFR 404.943 and 416.1443 (60 FR 47469, September 13, 1995), we are also testing, in another model for evaluating a possible change in isolation from other changes, use of an adjudication officer as the focal point for all prehearing activities in disability cases in which a claimant requests a hearing before an ALJ.

To assess how the above changes and other elements of the disability redesign plan would work together in different combinations, we initiated an integrated test on April 7, 1997, that combines model procedures for major elements of the redesign plan. As structured under testing authority established in §§ 404.906, 404.943, 416.1406, and 416.1443 in combination, this integrated model includes, in addition to models for the single decisionmaker and the adjudication officer, a model for procedures to provide a predecision interview conducted by the single decisionmaker (at which a claimant for benefits based on disability will have an opportunity to submit further evidence and have an interview with the initial decisionmaker if the evidence is insufficient to support a fully favorable initial disability determination or would require an initial determination denying the claim), and a model to test eliminating the reconsideration step in disability claims.

In order to increase our ability to assess the effects of possible modifications of the disability claim process in combination, we are, through publication of these final rules, adding new §§ 404.966 and 416.1466 to our regulations to authorize testing of an additional modification in our integrated model. These final rules authorize us to incorporate in the integrated model additional procedures to test elimination of the step in the disability claim process in which a claimant requests the Appeals Council to review the hearing decision of an ALJ.

Our specific goal in testing elimination of the request for Appeals Council review will be to assess the effects of this change, as it functions in

conjunction with other modifications in the disability claim process included in the integrated model, on: (1) judicial workloads, and (2) the legal sufficiency of decisions subjected to judicial review. We consider the effects of the change in those respects to represent the principal, practical issues bearing on the advisability of eliminating the request for review step in connection with the planned, overall redesign of the disability claim process.

Regulatory Provisions

Under new §§ 404.966 and 416.1466, we will randomly select approximately one half of the requests for an ALJ hearing in the integrated model for potential inclusion in the test procedures for eliminating the request for Appeals Council review. The remaining requests for hearing in the integrated model will be processed under our regulations concerning the request for Appeals Council review step and subsequent judicial review. This will enable us to assess other modifications tested in the integrated model in association with both the test procedures for eliminating the request for Appeals Council review and our existing request for review procedures.

The provisions of §§ 404.966 and 416.1466 apply only to those ALJ decisions that have been identified for inclusion in that part of our integrated model in which the request for review by the Appeals Council is eliminated. Under these provisions, we will eliminate the request for review step (which has been established by agency regulations and is not mandated by the Act) in a case in the integrated model if: (1) the case has been randomly selected for inclusion in this aspect of the model, and (2) an ALJ issues a decision in the case that is less than wholly favorable to the claimant (i.e., unfavorable or only partially favorable to the claimant). Cases in the integrated model in which an ALJ issues a wholly favorable decision, dismisses a request for hearing, or issues a recommended decision will not be included in this part of the model. These cases will be processed under our existing procedures for requesting Appeals Council review and judicial review.

In a case to which the new rules apply, the appeal available to a claimant who is dissatisfied with the ALJ's decision will be, as the notice of the decision will advise, filing a civil action in Federal district court. Requesting review by the Appeals Council will be eliminated as an appeal and as a prerequisite to seeking judicial review.

Under §§ 404.966 and 416.1466, the ALJ's decision will be binding unless a party to the decision files a civil action, the Appeals Council decides within a specified time to review the decision on its own motion under the authority provided in 20 CFR 404.969 and 416.1469, or the decision is revised by the ALJ or the Appeals Council under the rules on reopening final decisions in 20 CFR 404.987 and 416.1487. A party to the decision will have the right to request the Appeals Council to grant an extension of time to file a civil action.

Evaluation Procedures

We will evaluate the effect of eliminating the request for review step on judicial workloads by comparing the rate at which civil actions are filed by individuals whose claims are processed under the current administrative review steps in the disability claims process—i.e., the four step process—to the rate at which civil actions are filed in cases selected for processing under the test procedures for eliminating the request for Appeals Council review. We will also consider the rate at which civil actions are filed in cases in the integrated model in which we retain the request for Appeals Council review. In addition, we will collect and evaluate information on the reasons individuals included in the elimination of the request for review decide either to pursue or to forgo appeals to district courts.

We will assess the effect of eliminating the request for review on the legal sufficiency of final decisions by comparing the rates at which, following the filing of civil actions in cases included in the integrated model and in a control sample of cases processed under the current administrative review steps in the disability claims process, we request court-remand of a case within the period during which the Commissioner of Social Security may file his answer to a civil action under section 205(g) of the Act. The Appeals Council, working with agency counsel, will evaluate the claims in the integrated model and in the control sample to identify instances in which a court should be requested (as courts may be under existing procedures) to remand a case for further administrative action. The information we will collect and evaluate will include data on the agency's ability to assess the legal sufficiency of cases on a timely basis without having to file court motions requesting extensions of the time in which the agency's answer may be filed.

Public Comments

These regulatory provisions were published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on May 16, 1997 (62 FR 26997). We provided the public a 30-day comment period. We received statements in response to this notice from 10 individuals, including employees of SSA and attorney and nonattorney representatives of claimants. We also received comments from a legal services organization, the American Bar Association, and the Administrative Office of the United States Courts.

Many of the commenters discussed reasons for believing that the request for Appeals Council review should be retained either as a mandatory or an optional step in the disability claim process. These comments can be viewed as opposing testing of the elimination of the request for review step on the basis that the need for the step, as it now exists or as it might be changed under the commenter's suggestions, is sufficiently clear to rule out testing its elimination. We have summarized these statements in a single comment to this effect that we address below with the other substantive comments received.

The American Bar Association welcomed SSA's proposal to study the Appeals Council's role and endorsed the plan to examine the impact of eliminating the request for review step, without taking a position with respect to the specific procedures proposed for testing that impact. The Administrative Office of the United States Courts reported that the Federal judiciary continues to be seriously concerned about the impact of eliminating the request for review by the Appeals Council on the caseloads of the Federal courts. However, this office supported careful testing of the proposed changes and thorough analysis of the results as consistent with the common interests of SSA and the courts in providing efficient and legally sufficient decisions, and made specific recommendations, which we address below in our responses to the comments received, as to how to ensure such testing and analysis.

Because some of the comments were detailed, we condensed, summarized or paraphrased them. We have, however, tried to summarize the commenters' views accurately and respond to all of the significant issues raised by the commenters that are within the scope of the proposed rules. As we discuss below in responding to the comments, we have made an addition to the proposed rules to clarify their intent. We have also responded to comments received by adding to our planned evaluation design.

Comment: A number of the commenters implicitly or explicitly

opposed testing elimination of the request for review step in the disability claim process on the basis that the step is necessary or worthwhile and should not be eliminated. The wide-ranging reasons cited for this view included the following: that a shorter process is not necessarily a fairer process, that SSA should deal with the increase in the Appeals Council's workloads by increasing its staff and other support, that claimants may drop out of the process prematurely because of the costs and other difficulties involved in filing civil actions, that SSA's workloads will be increased by the filing of new claims by individuals who leave the administrative appeals process prematurely, and that the change will result in large increases in caseloads in the Federal courts.

Response: The reasons cited in support of this comment are generally similar to reasons for not eliminating the request for review step we received and considered in developing and publishing the Plan for a New Disability Claim Process. Many of these reasons have merit, to one degree or another. However, there are also sound reasons for believing that eliminating the request for review step would improve the disability claim process, if carried out in conjunction with other changes to that process. After reviewing these additional statements in opposition to eliminating the request for review step, we continue to believe that we should test eliminating this step in conjunction with other possible changes for the purpose of gaining additional information needed to make a fully informed decision.

Comment: One individual opposed the proposed testing of the elimination of the request for review step on the basis that such testing could itself adversely affect over 30,000 claimants, lessening their chances of receiving a favorable ALJ decision (because ALJs will know in advance that less than wholly favorable decisions in certain cases will not be subject to a request for Appeals Council review), without providing the claimants involved in the testing any offsetting benefits stemming from process unification and changes to the front-end of the disability claim process.

Response: As we stated in the NPRM, these rules will authorize elimination of the request for review in only a relatively small number of cases, which we project at approximately 1900. The test will apply only in those cases in the integrated model that give rise to a request for an ALJ hearing (projected at approximately 10,000 cases), that are then randomly selected for inclusion in the request for review elimination (contingent on an ALJ's issuance of a less than wholly favorable decision), and that result in a less than wholly favorable decision.

We do not know that there would be, as this comment indicates, a reduction in the likelihood of an allowance decision because the ALJ in a case knows that the case will not be subject to a request by the claimant for review by the Appeals Council and will, instead, be subject to the immediate filing of a civil action to secure judicial review. However, we believe that we should maximize the relevant, advance notice that we can give individuals that their cases will be included in these test procedures of the integrated model (if an ALJ issues a decision that is less than wholly favorable) and will, therefore, provide notice of that circumstance in the acknowledgment letter issued by the adjudication officer at the start of the ALJ hearing process. We also believe it is important to test these changes at the ALJ hearing level with the advance knowledge of the participants in that, if the request for review step were ultimately eliminated, all the participants in the hearing process would know that the appeal available to a dissatisfied claimant would be to file a civil action in Federal district court.

The test of eliminating the request for review will be accompanied by changes in the front-end of the disability claim process and by process unification changes. Individuals participating in this test will participate in other changes being tested in the integrated model, including the opportunity for a face-to-face interview with the initial decisionmaker and elimination of the reconsideration step. In addition, like all claims for benefits based on disability, the claims involved in the test of eliminating the request for Appeals Council review will be decided under the significant process unification changes we have already made to the disability claims process. These changes include the publication of a series of Social Security Rulings on some of the most significant issues in disability adjudication (61 FR 34466–34492, July 2, 1996), and the training of all of our adjudicators, at all adjudicative levels, in the correct application of these rulings.

Comment: One individual expressed doubt about the methodology of the proposed test, questioning whether testing elimination of the request for Appeals Council review in only about 1900 cases will provide a statistically valid universe for deriving useful information relative to a process that involves, at the ALJ level, hundreds of thousands of cases and varied factors affecting case outcome.

Response: Prior to implementing the integrated model in April 1997, we secured an independent analytical assessment of the completeness, adequacy, and statistical soundness of our plans for conducting and evaluating the testing to be carried out in that model, including our plans for testing elimination of the request for Appeals Council review. Performed by the Lewin Group, Inc., this assessment concluded that our test design was fundamentally sound and that, even if recommendations for improving the test were not implemented, the test would likely produce valid findings and provide information that decisionmakers and stakeholders need. Final Report, An Independent Assessment of the Proposed Structure, Operation, and Evaluation Plans of the Full Process Model Pilot (hereafter, Final Report), prepared by the Lewin Group, Inc., March 14, 1997, p. 2. (The ''Full Process Model Pilot'' is same test that we are herein referring to as the ''integrated model.'')

We have implemented most of the recommendations the Lewin Group made for improving our test and evaluation procedures. The recommendations implemented include the recommendation the Lewin Group made relative to testing elimination of the request for Appeals Council review (which recommendation concerned when in the process individuals should be notified that they will not have an opportunity to request Council review). Final Report, p. 21.

Comment: The Administrative Office of the United States Courts requested clarification as to which judicial districts will be affected.

Response: The test of eliminating the request for Appeals Council review will affect claims of individuals residing in the following ten States: Arizona, Colorado, Georgia, Kentucky, New York, Pennsylvania, South Carolina, Tennessee, Utah, and Wisconsin. District courts in these States will be affected by procedures for testing and evaluating the request for Appeals Council review elimination.

Comment: The Administrative Office of the United States Courts also recommended that follow-up surveys be conducted with participants in the test of eliminating the request for Appeals Council review to determine what factors went into the decisions of claimants either to pursue or to forgo appeals to district courts.

Response: Under our evaluation design for the integrated model, we

intend to conduct surveys to collect information on multiple issues we are assessing in this model. We believe it would be helpful to collect and evaluate information regarding the factors concerning court filings identified by this commenter, and we will do that. Collecting such information requires no change in the regulatory provisions as proposed.

Comment: The Administrative Office of the United States Courts also thought that it would be advantageous to have a set period for the test, followed by a meaningful review of the results, particularly the impact upon Federal court filings, prior to a determination being made as to whether permanent changes would be made to the Appeals Council review step. This commenter also noted in this regard that the Federal judiciary would like to be made aware of the results of the proposed test.

Response: We project that the operational aspects of the integrated model will be completed within two and a half to three years of our initiation of testing in the front-end parts of the model in April 1997. This projection includes the estimated time we will require to conduct pre-answer assessments of the legal sufficiency of new court cases that arise in cases in the integrated model. No fixed term for the test can be set because completion of its operational aspects will depend on when the last civil action is filed in cases in the integrated model in which the request for review is eliminated or the Appeals Council denies review. We will then require an additional period to conclude our evaluation of the test results.

We agree that we should not decide to propose elimination of the request for review step in the disability claim process until we have undertaken preliminary consultation with key stakeholders, including the Administrative Office of the United States Courts, about the results demonstrated in our testing of the integrated model, and about the multiple issues that would be involved in proposing such a change. If a decision were made to propose elimination of the request for review step after analysis of the test results, we would, of course, publish an NPRM soliciting public comments on the various changes in our regulations that would be required to implement this change.

Comment: A private attorney representative of claimants commented that the proposed regulations are ''contrary to the Act in that they purport to use the first part of sentence six [of § 205(g) of the Act] to reclaim ALJ decisions the agency concludes are indefensible or that the agency does not otherwise want to defend.'' This commenter believes that the first part of sentence six is properly used only in very narrow circumstances, such as when a hearing transcript cannot be prepared, and that Congress did not enact part one of sentence six to provide the agency with a chance to rehear or redo an inadequate ALJ decision for the purpose of avoiding a ruling on the merits of the decision under sentence four of § 205(g).

Response: The agency's procedures for assessing the legal defensibility of cases filed in Federal court will not be affected by the final rules, and any court action requested in light of such assessment will continue to be subject to the relevant provisions of § 205(g) of the Act. We do not, however, agree that the first clause of sentence six of § 205(g) must be construed in the restrictive manner suggested by the commenter, who believed that sentence six allows remands prior to the filing of the answer only in ''very narrow circumstances, such as when a hearing transcript cannot be prepared.'' The first clause of sentence six expressly allows the court to remand cases for further proceedings ''for good cause shown.'' It neither delineates nor limits the circumstances which may be sufficient for a demonstration of good cause. Moreover, the legislative history of this provision recognizes the type of procedural difficulty suggested by the commenter to be an example of ''good cause,'' not an exclusive delineation of the circumstances that may constitute good cause. H.R. Conf. Rep. No. 944, 96th Cong., 2d Sess. 58–59 (1980). Significantly, virtually every court which has addressed the issue has held that the defining characteristic of a sentence six, clause one remand lies in the timing of the remand request, not in its characterization as either substantive or technical, *i.e.*, if the remand is requested by the Commissioner prior to the filing of his answer, it falls under sentence six, and if the Commissioner's request is made subsequent to the filing of an answer, it may fall under sentence four.

Comment: This same individual also commented that the proposed rules represent an implicit assertion by the agency that it may extend the 60 days for taking own motion review to any time before the Commissioner files his answer.

Response: It is our intent that the Appeals Council shall have authority to review a case on its own motion under these final rules only if it decides to review the case, and issues a notice establishing the occurrence of such a decision, within the 60-day period prescribed in §§ 404.969 and 416.1469 (i.e., within 60 days of the date of the hearing decision). We believe this intent is clear in the rules as proposed, which indicate in §§ 404.966(b)(2) and 416.1466(b)(2) that the own-motion authority the Appeals Council will have under these rules is the authority provided in §§ 404.969 and 416.1469.

In test cases in which the request for review by the Appeals Council is eliminated and the notice of the ALJ's decision advises the parties of the right to file a civil action, it is also our intent that the authority of the Appeals Council to decide to review a case on its own motion shall cease to exist, even if 60 days have not yet lapsed after the date of the ALJ's decision, as of the date, if any, upon which the jurisdiction of a Federal district court is established by the filing of a civil action as provided in the Federal Rules of Civil Procedure. We have clarified §§ 404.966(b)(2) and 416.1466(b)(2) to make this intention clearer. The agency's assessment of a case following establishment of the jurisdiction of a Federal court will occur under the provisions of § 205(g) of the Act, 42 U.S.C. § 405(g).

In a case in which we test elimination of the request for Appeals Council review, a decision by the Appeals Council to review an ALJ's decision under §§ 404.969 or 416.1469 will mean that the Council has assumed jurisdiction of the case, thereby causing the decision not to be a final decision of the Commissioner of Social Security subject to judicial review under § 205(g) of the Act. If the Appeals Council decides to review one of these cases on its own motion, it must issue a notice establishing its decision to do so before a civil action is filed establishing the jurisdiction of a Federal district court.

To clarify our intent in these respects, we have revised §§ 404.966(b)(2) and 416.1466(b)(2) in the final rules to include a provision specifying that the Appeals Council must issue a notice announcing its decision to review the case on its own motion before the filing date of any civil action establishing the jurisdiction of a Federal district court.

Comment: This same individual also commented that the proposed regulations invite unnecessary litigation over motions for extension of time to file answer.

Response: As we discussed in the NPRM, our intent is that the Appeals Council, working with agency counsel, will evaluate the legal sufficiency of cases in the integrated model and in a

control sample to determine, within the time in which the Commissioner of Social Security may file his answer, if we should request the court to remand the case. We do not expect that these activities will require the agency frequently to request extensions of time to file answers in these cases. However, our ability to carry out these evaluations in a timely fashion is an important consideration and will be one of the matters we assess in the testing to be conducted under these final rules.

Based on our analysis of the comments, we are adopting the proposed rules with the above-discussed addition to §§ 404.966(b)(2) and 416.1466(b)(2). This addition clarifies the time during which the Appeals Council may decide on its own motion to review a case to which these final rules apply. We have also made the following minor editorial changes in the rules as proposed: we have inserted the words ''in which'' in the final clause of the last sentence of §§ 404.966(a) and 416.1466(a), and we have made technical corrections in the numbering of the subparagraphs of §§ 404.966(b) and 416.1466(b). The additions we have made to our evaluation plans based on consideration of the comments require no changes in the regulatory provisions as proposed.

Regulatory Procedures

We find good cause for dispensing in this instance with the 30-day delay in the effective date of a substantive rule provided for by 5 U.S.C. 553(d). For the reasons set forth below, we find that it is unnecessary and contrary to the public interest to delay the effective date of these final rules.

We find that delay of the effective date is unnecessary because the affected individuals will be notified of the possibility of elimination of the Appeals Council review step more than 30 days before any such elimination actually occurs. Under new §§ 404.966 and 416.1466, we will randomly select cases in the integrated model for contingent inclusion in the test of eliminating the request for Appeals Council review after a request for an ALJ hearing is filed and before the adjudication officer acknowledges receipt of the request for a hearing. In the cases selected, as we have previously discussed, the acknowledgement letter the adjudication officer sends will notify the individual filing the request (and any appointed representative of the individual) that if an ALJ issues a decision that is less than wholly favorable, the right of appeal available to the individual will be to file a civil action in Federal district court.

Elimination of the request for Appeals Council review step will not occur in a case, if it occurs at all, until after the adjudication officer sends the case to an ALJ, a hearing is scheduled and held (except where the parties waive an oral hearing), and the ALJ issues a decision that is less than wholly favorable. Therefore, even with elimination of the 30-day delay in the effective date of these final rules, the substantive change authorized by §§ 404.966 and 416.1466, elimination of the request for Appeals Council review step for test purposes, will not actually occur until after more than 30 days have elapsed from the date of the publication of these final rules in the **Federal Register**.

We also find that delay of the effective date is contrary to the public interest because it would compromise our ability to evaluate the effects of the test. By making the rules effective upon publication, we can immediately implement the planned selection and notice procedures and thereby make it possible to test elimination of the request for Appeals Council review in the greatest number of cases in the integrated model that can be used without reducing our ability also to test, as we believe we should, use of the other new procedures in the integrated model with the request for review step. We believe that maximizing the number of cases in the integrated model in which we can test elimination of the request for Appeals Council review step, while also testing retention of that step in conjunction with the other changes in the integrated model, will contribute to the soundness of our evaluation of the effects of eliminating this step from the disability claim process.

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these rules meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they were subject to OMB review. These rules do not adversely affect State, local or tribal governments. The administrative costs of the test will be covered within budgeted resources. No program costs are expected to result from the processing of the test cases. We have not, therefore, prepared a cost/benefit analysis under Executive Order 12866.

Regulatory Flexibility Act

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

Paperwork Reduction Act

These 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; 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, 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, Supplemental Security Income (SSI), Reporting and record keeping requirements.

Dated: August 26, 1997.

John J. Callahan,

Acting Commissioner of Social Security.

For the reasons set out in the preamble, subpart J of part 404 and subpart N of part 416 of chapter III of title 20 of the Code of Federal Regulations are amended as set forth below.

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

20 CFR part 404, subpart J, is amended as follows:

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

Authority: Secs. 201(j), 205(a), (b), (d)–(h), and (j), 221, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 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. New § 404.966 is added under the undesignated center heading ''APPEALS COUNCIL REVIEW'' to read as follows:

§ 404.966 Testing elimination of the request for Appeals Council review.

(a) *Applicability and scope.* Notwithstanding any other provision in this part or part 422 of this chapter, we are establishing the procedures set out in this section to test elimination of the request for review by the Appeals Council. These procedures will apply in randomly selected cases in which we have tested a combination of model

procedures for modifying the disability claim process as authorized under §§ 404.906 and 404.943, and in which an administrative law judge has issued a decision (not including a recommended decision) that is less than wholly favorable to you.

(b) *Effect of an administrative law judge's decision.* In a case to which the procedures of this section apply, the decision of an administrative law judge will be binding on all the parties to the hearing unless —

(1) You or another party file an action concerning the decision in Federal district court;

(2) The Appeals Council decides to review the decision on its own motion under the authority provided in § 404.969, and it issues a notice announcing its decision to review the case on its own motion no later than the day before the filing date of a civil action establishing the jurisdiction of a Federal district court; or

(3) The decision is revised by the administrative law judge or the Appeals Council under the procedures explained in § 404.987.

(c) *Notice of the decision of an administrative law judge.* The notice of decision the administrative law judge issues in a case processed under this section will advise you and any other parties to the decision that you may file an action in a Federal district court within 60 days after the date you receive notice of the decision.

(d) *Extension of time to file action in Federal district court.* Any party having a right to file a civil action under this section may request that the time for filing an action in Federal district court be extended. The request must be in writing and it must give the reasons why the action was not filed within the stated time period. The request must be filed with the Appeals Council. If you show that you had good cause for missing the deadline, the time period will be extended. To determine whether good cause exists, we will use the standards in § 404.911.

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

20 CFR part 416, subpart N, is amended as follows:

1. The authority citation for subpart N continues to read as follows:

Authority: Sec. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b).

2. New § 416.1466 is added under the undesignated center heading ''APPEALS COUNCIL REVIEW'' to read as follows:

§ 416.1466 Testing elimination of the request for Appeals Council review.

(a) *Applicability and scope.* Notwithstanding any other provision in this part or part 422 of this chapter, we are establishing the procedures set out in this section to test elimination of the request for review by the Appeals Council. These procedures will apply in randomly selected cases in which we have tested a combination of model procedures for modifying the disability claim process as authorized under §§ 416.1406 and 416.1443, and in which an administrative law judge has issued a decision (not including a recommended decision) that is less than wholly favorable to you.

(b) *Effect of an administrative law judge's decision.* In a case to which the procedures of this section apply, the decision of an administrative law judge will be binding on all the parties to the hearing unless —

(1) You or another party file an action concerning the decision in Federal district court;

(2) The Appeals Council decides to review the decision on its own motion under the authority provided in § 416.1469, and it issues a notice announcing its decision to review the case on its own motion no later than the day before the filing date of a civil action establishing the jurisdiction of a Federal district court; or

(3) The decision is revised by the administrative law judge or the Appeals Council under the procedures explained in § 416.1487.

(c) *Notice of the decision of an administrative law judge.* The notice of decision the administrative law judge issues in a case processed under this section will advise you and any other parties to the decision that you may file an action in a Federal district court within 60 days after the date you receive notice of the decision.

(d) *Extension of time to file action in Federal district court.* Any party having a right to file a civil action under this section may request that the time for filing an action in Federal district court be extended. The request must be in writing and it must give the reasons why the action was not filed within the stated time period. The request must be filed with the Appeals Council. If you show that you had good cause for missing the deadline, the time period will be extended. To determine whether good cause exists, we will use the standards in § 416.1411.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR 157

[CGD 91–045]

RIN 2115–AF51

Operational Measures To Reduce Oil Spills From Existing Tank Vessels Without Double Hulls

AGENCY: Coast Guard, DOT.

ACTION: Final rule; response to petitions for rulemaking.

SUMMARY: On July 30, 1996, the Coast Guard published a final rule requiring the owners, masters, or operators of tank vessels of 5,000 gross tons or more that do not have double hulls and that carry oil in bulk as cargo to comply with certain operational measures. This final rule included a provision requiring, in some cases, owner notification of the vessel's calculated anticipated under-keel clearance which was scheduled to go into effect on November 27, 1996. Following issuance of the final rule, the Coast Guard received comments, several in the form of petitions for rulemaking, expressing concern about the implementation of the owner notification portion of the under-keel clearance provision and requesting an additional opportunity to comment on the provision. On November 27, 1996, the Coast Guard granted this request by suspending the provision and giving the public 90 days to comment on the under-keel clearance requirement in general. After reviewing the additional public comments, the Coast Guard issues a final rule which revises the under-keel clearance requirement for single-hull tank vessels and responds to the petitions for rulemaking.

DATES: This final rule is effective on January 21, 1998.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G–LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593–0001, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–267–1477.

FOR FURTHER INFORMATION CONTACT: LCDR Suzanne Englebert, Project Manager, Project Development Division, at 202–267–1492 or LT Brian Willis, Vessel Compliance Division, at 202–267–2735.