

(2) For Model EMB-135BJ airplanes: EMBRAER Service Bulletin 145LEG-28-0018, Revision 01, dated April 20, 2005.  
 (g) For Model EMB-135ER, -135KE, -135KL, -135LR, -145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP airplanes that are not identified in paragraph (f)(1) of this AD: Within 5,000 flight hours or 48 months after the effective date of this AD,

whichever occurs first, replace the metallic tubes enclosing the vent and pilot valve wires in the left- and right-hand wing fuel tanks with new, improved, non-conductive hoses; in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145-28-0023, Revision 11, dated December 4, 2007.

**Credit for Actions Done Using Previous Service Information**

(h) Actions accomplished before the effective date of this AD in accordance with the service information specified in Table 1 of this AD are considered acceptable for compliance with the corresponding actions of this AD.

TABLE 1.—ACCEPTABLE EMBRAER SERVICE INFORMATION

EMBRAER Service Bulletin	Revision level	Date
145-28-0023	Original	April 19, 2004.
145-28-0023	01	June 9, 2004.
145-28-0023	02	November 8, 2004.
145-28-0023	03	April 27, 2005.
145-28-0023	04	November 7, 2005.
145-28-0023	05	May 15, 2006.
145-28-0023	06	October 31, 2006.
145-28-0023	07	February 7, 2007.
145-28-0023	08	May 25, 2007.
145-28-0023	09	July 30, 2007.
145-28-0023	10	October 28, 2007.
145LEG-28-0018	Original	April 23, 2004.

**Compliance (AMOCs)**

(i)(1) The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

**Related Information**

(j) None.

Issued in Renton, Washington, on June 6, 2008.

**Michael Kaszycki,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E8-13923 Filed 6-19-08; 8:45 am]

**BILLING CODE 4910-13-P**

**SOCIAL SECURITY ADMINISTRATION**

**20 CFR Parts 404 and 416**

[Docket Number: SSA-2008-0031]

**RIN 0960-AG68**

**Technical Amendments to Definition of Persons Closely Approaching Retirement Age**

**AGENCY:** Social Security Administration.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** We propose to modify our rules on age used in determining disability under titles II and XVI of the Social Security Act (“The Act”) to

revise the definition of persons “closely approaching retirement age” from “60–64” to “60 or older.” The purpose of these changes is to acknowledge that we make disability determinations for individuals over age 64. These proposed changes are technical corrections that would help to explain how we currently determine disability for such individuals and would not have any substantive effect.

**DATES:** To ensure that we consider your comments, we must receive them no later than August 19, 2008.

**ADDRESSES:** You may submit comments by any one of four methods—Internet, facsimile, regular mail, or hand-delivery. Commenters should not submit the same comments multiple times or by more than one method. Regardless of which of the following methods you choose, please state that your comments refer to Docket No. SSA-2008-0031 to ensure that we can associate your comments with the correct regulation:

1. Federal eRulemaking portal at <http://www.regulations.gov>. (This is the most expedient method for submitting your comments and we strongly urge you to use it.) In the “Comment or Submission” section of the webpage, type “SSA-2008-0031,” select “Go,” and then click “Send a Comment or Submission.” The Federal eRulemaking portal will issue you a tracking number when you submit a comment.

2. Telefax to (410) 966-2830.

3. Letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, MD 21235-7703.

4. Deliver your comments to the Office of Regulations, Social Security Administration, 922 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, between 8 a.m. and 4:30 p.m. on regular business days.

All comments are posted on the Federal eRulemaking portal, although they may not appear for several days after receipt of the comment. You may also inspect the comments on regular business days by arranging with the contact person shown in this preamble.

**Caution:** All comments we receive from members of the public are available for public viewing on the Federal eRulemaking portal at <http://www.regulations.gov>. You should be careful to include in your comments only information that you wish to make publicly available on the Internet. We strongly urge you not to include any personal information, such as your Social Security number or medical information, in your comments.

**FOR FURTHER INFORMATION CONTACT:** Helen Drodzy, Regulations Analyst, 934 Altmeyer Building, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-1483, for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

**SUPPLEMENTARY INFORMATION:**

**Electronic Version**

The electronic file of this document is available on the date of publication in

the **Federal Register** at <http://www.gpoaccess.gov/fr/index.html>.

### Change to Definition of Persons “Closely Approaching Retirement Age”

In an effort to keep our regulations current, we regularly review our regulations to eliminate or modify any rules affected by legal or policy changes. Our current rules define individuals “closely approaching retirement age” as those who are “age 60–64.” 20 CFR 404.1563(e) (2007); 20 CFR 416.963(e) (2007).

An individual can establish entitlement to benefits based on disability or blindness until the month in which he or she attains full retirement age under title II. When we first published these rules, we did not make disability determinations for individuals who were over 64 years of age because age 65 was full retirement age under title II. In 1983, Congress legislated a gradual increase in “full retirement age” (“FRA”) from 65 to 67. As a result, we are now processing disability claims for individuals who are over age 64.

Under title XVI, we sometimes must determine whether individuals age 65 or older are disabled in order to determine, among other things, benefit eligibility of “qualified” aliens, eligibility for certain State supplements, the applicability of work incentive provisions, or the appropriate evaluation of income and resources. Currently, when we determine whether such individuals are disabled, we generally use the same rules as we do for individuals who are age 60–64.

We propose to modify our rules at §§ 404.1563(e); 404.1568(d)(4); 416.963(e); 416.968(d)(4); and part 404, subpart P, appendix 2, §§ 202.00(f), and 203.00(c) to include individuals over age 64 in the subcategory of those “closely approaching retirement age” for benefits based on disability under titles II and XVI of the Act. This modification would make the definition consistent with our definition of FRA and acknowledge that we make disability determinations for individuals over age 64 under title XVI. The proposed changes are technical corrections and would not have any substantive effect.

In 2005, we published an NPRM that would have redefined all of the age categories. However, this NPRM does not incorporate the changes suggested in the 2005 NPRM nor modify our existing policy in any manner.

### Clarity of These Proposed Rules

Executive Order (“E.O.”) 12866, as amended, requires each agency to write

all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your comments on how to make them easier to understand.

For example:

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

### When Will We Start To Use These Rules?

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

### Regulatory Procedures

#### *Executive Order 12866, as Amended*

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

#### *Regulatory Flexibility Act*

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

#### *Paperwork Reduction Act*

These regulations impose no reporting or recordkeeping requirements subject to 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; Blind; Disability benefits; Old-Age, Survivors, and Disability Insurance; Reporting and recordkeeping requirements; Social security.

#### *20 CFR Part 416*

Administrative practice and procedure; Aged; Blind; Disability benefits; Public assistance programs; Reporting and recordkeeping requirements; Supplemental Security Income (SSI).

Dated: June 12, 2008.

**Michael J. Astrue,**  
*Commissioner of Social Security.*

For the reasons set out in the preamble, we propose to amend 20 CFR parts 404 and 416 as follows:

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

2. Amend § 404.1563 to revise paragraph (e) to read as follows:

#### **§ 404.1563 Your age as a vocational factor.**

\* \* \* \* \*

(e) *Person of advanced age.* We consider that at advanced age (age 55 or older), age significantly affects a person’s ability to adjust to other work. We have special rules for persons of advanced age and for persons in this category who are closely approaching retirement age (age 60 or older). See § 404.1568(d)(4).

\* \* \* \* \*

3. Amend § 404.1568 to revise the fifth sentence of paragraph (d)(4) to read as follows:

#### **§ 404.1568 Skill requirements.**

\* \* \* \* \*

(d) *Skills that can be used in other work (transferability).* \* \* \*

(4) *Transferability of skills for individuals of advanced age.* \* \* \* If you are *closely approaching retirement age* (age 60 or older) and you have a severe impairment(s) that limits you to no more than *light* work, we will find that you have skills that are transferable

to skilled or semiskilled light work only if the light work is so similar to your previous work that you would need to make very little, if any, vocational adjustment in terms of tools, work processes, work settings, or the industry. \* \* \*

4. Amend part 404, subpart P, appendix 2, as follows:

a. In section 202.00, revise paragraph (f) to read as follows:

b. In section 203.00, revise the third sentence of paragraph (c) to read as follows:

**Appendix 2 to Subpart P of Part 404—  
Medical-Vocational Guidelines**

\* \* \* \* \*

202.00 *Maximum sustained work capability limited to light work as a result of severe medically determinable impairment(s).*

\* \* \* \* \*

(f) For a finding of transferability of skills to light work for individuals of advanced age who are closely approaching retirement age (age 60 or older), there must be very little, if any, vocational adjustment required in terms of tools, work processes, work settings, or the industry.

\* \* \* \* \*

203.00 *Maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s).*

\* \* \* \* \*

(c) \* \* \* Further, for individuals closely approaching retirement age (60 or older) with a work history of unskilled work and with marginal education or less, a finding of disabled is appropriate.

\* \* \* \* \*

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

**Subpart I—[Amended]**

5. The authority citation for subpart I of part 416 continues to read as follows:

**Authority:** Secs. 221(m), 702 (a)(5), 1611, 1614, 1619, 1631(a), (c), and (d)(1), and (p), and 1633 of the Social Security Act (42 U.S.C. 421(m), 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), and (d)(1), and (p), and 1383(b); secs. 4(c) and 5, 6(c)–(e), 14(a), and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, and 1382h note).

6. Amend § 416.963 to revise paragraph (e) to read as follows:

**§ 416.963 Your age as a vocational factor.**

\* \* \* \* \*

(e) *Person of advanced age.* We consider that at advanced age (age 55 or older), age significantly affects a person's ability to adjust to other work. We have special rules for persons of advanced age and for persons in this

category who are closely approaching retirement age (age 60 or older). See § 416.968(d)(4).

\* \* \* \* \*

7. Amend § 416.968 to revise the fifth sentence of paragraph (d)(4) to read as follows:

**§ 416.968 Skill requirements.**

\* \* \* \* \*

(d) *Skills that can be used in other work (transferability).* \* \* \*

(4) *Transferability of skills for individuals of advanced age.* \* \* \* If you are *closely approaching retirement age* (age 60 or older) and you have a severe impairment(s) that limits you to no more than *light work*, we will find that you have skills that are transferable to skilled or semiskilled light work only if the light work is so similar to your previous work that you would need to make very little, if any, vocational adjustment in terms of tools, work processes, work settings, or the industry. \* \* \*

[FR Doc. E8–13789 Filed 6–19–08; 8:45 am]

**BILLING CODE 4191–02–P**

**DEPARTMENT OF LABOR**

**Employees Compensation Appeals Board**

**20 CFR Part 501**

**RIN 1290–AA22**

**Rules of Procedure**

**AGENCY:** Employees' Compensation Appeals Board, Department of Labor.

**ACTION:** Notice of Proposed Rulemaking (NPRM); Request for Comments.

**SUMMARY:** The Department of Labor (DOL or Department) is issuing this Notice of Proposed Rulemaking (NPRM) to update the regulations providing for appeals before the Employees' Compensation Appeals Board (Board). The Board has jurisdiction over appeals arising under the Federal Employees' Compensation Act (FECA). 5 U.S.C. 8149. Over the forty-six years since the last major revisions to the Board's procedural regulations, several aspects of the current rules have become outdated by case law precedent or technological advances. These proposed revisions will provide updated rules and guidance to all federal employees who seek to appeal from the decisions of the Office of Workers' Compensation Programs (OWCP) under FECA.

**DATES:** The Department invites interested persons to submit comments on this proposed rule. To ensure

consideration, comments must be in writing and must be received on or before August 19, 2008.

**ADDRESSES:** You may submit comments, identified by Regulatory Identification Number (RIN) 1290–AA22, by either one of the two following methods:

• *Federal e-Rulemaking Portal:* <http://www.regulations.gov>. Follow the Web site instructions for submitting comments.

• *Mail/Hand Delivery/Courier:* Written comments, disk and CD-Rom submissions may be mailed or delivered by hand delivery/courier to Alec J. Koromilas, Chairman and Chief Judge, Employees' Compensation Appeals Board, via the Office of the Clerk of the Appellate Boards, 200 Constitution Avenue, NW., Washington, DC 20210. The Office of the Clerk is open during business hours on all days except Saturdays, Sundays and Federal Holidays, from 8:30 a.m. to 5 p.m., Eastern Time.

Additional information on submitting and reviewing comments is found in Section IV.

**FOR FURTHER INFORMATION CONTACT:** Alec J. Koromilas, Chairman and Chief Judge, Employees' Compensation Appeals Board, 200 Constitution Avenue, NW., Room S–5220, Washington, DC, 20210; E-mail [contact-oas@dol.gov](mailto:contact-oas@dol.gov); Telephone (202) 693–6406 (VOICE) (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:** This preamble is divided into four sections. Section I provides general background information on the development of the proposed revisions to 20 CFR part 501. Section II is a section-by-section analysis of the proposed regulatory text. Section III covers the administrative requirements for this proposed rulemaking. Section IV provides additional information and instructions to those wishing to comment on the rule.

**I. Background**

The Employees' Compensation Appeals Board was created by the Reorganization Plan No. 2 of 1946 and transferred to the Department of Labor in 1950 by Reorganization Plan No. 19 of 1950. See 5 U.S.C. 8145 notes. Under the Federal Employees' Compensation Act, the Secretary of Labor must provide for an Employees' Compensation Appeals Board “\* \* \* with the authority to hear and, subject to applicable law and the rules and