

June 7, 1999." to conform with the style of this section.

### 3.00 Respiratory System

We propose to delete the cross-reference to the obesity listing in the last sentence of 3.00H and in listing 3.10, *Sleep-related breathing disorders*. Since we propose to delete the obesity listing, the cross-reference would no longer be appropriate.

## Regulatory Procedures

### Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed regulations meet the criteria for a significant regulatory action under Executive Order (E.O.) 12866. Therefore, we prepared and submitted to OMB an assessment of the potential costs and benefits of this regulatory action. This assessment also contains an analysis of alternative policies we considered and chose not to adopt. It is available for review by members of the public by contacting the person shown above.

### Regulatory Flexibility Act

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

### Paperwork Reduction Act

These proposed regulations will impose no new reporting or recordkeeping 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 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: December 19, 1997.

**Kenneth S. Apfel,**

*Commissioner of Social Security.*

For the reasons set out in the preamble, part 404, subpart P, Chapter III of Title 20, Code of Federal Regulations, is proposed to be amended as set forth below.

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

1. The authority citation for subpart P 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.

### Appendix 1 to Subpart P—[Amended]

2. Appendix 1 to Subpart P is amended as follows:

- a. Item 10 of the introductory text before Part A of appendix 1 is revised.
- b. The Table of Contents for Part A of appendix 1 is amended by removing "and Obesity" from section 9.00.
- c. Listing 3.00 in part A of appendix 1 is amended by removing the last sentence of paragraph H.
- d. Listing 3.10 in Part A of appendix 1 is revised.
- e. Listing 9.00 in part A of appendix 1 is amended by removing "and Obesity" from the title and removing the last two paragraphs from the preface.
- f. Listing 9.01 in part A of appendix 1 is amended by removing "and Obesity" from the title.
- g. Listing 9.09 in part A of appendix 1 is removed.

The revised text is set forth as follows:

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

\* \* \* \* \*

10. Endocrine System (9.00 and 109.00): June 7, 1999.

\* \* \* \* \*

#### Part A

\* \* \* \* \*

3.10 *Sleep-related breathing disorders*. Evaluate under 3.09 (Chronic cor pulmonale) or 12.02 (Organic mental disorders).

\* \* \* \* \*

[FR Doc. 98–6212 Filed 3–10–98; 8:45 am]

BILLING CODE 4190–29–P

## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Part 422

RIN 0960–AE66

### Listening-In to or Recording Telephone Conversations

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to add regulations relating to the use of SSA's

telephone lines. In the new regulations, we propose to describe the limited circumstances under which SSA employees may listen-in to or record telephone conversations and the procedures we will follow in connection with this activity.

**DATES:** Your comments will be considered if we receive them no later than May 11, 1998.

**ADDRESSES:** Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, MD 21235, sent by telefax to (410) 966–2830, sent by E-mail to "regulations@ssa.gov," or delivered to the Office of Process and Innovation Management, Social Security Administration, L2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

**FOR FURTHER INFORMATION CONTACT:** Lois Berg, Legal Assistant, Office of Process and Innovation Management, Social Security Administration, L2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1713.

### SUPPLEMENTARY INFORMATION:

#### Background

On August 8, 1996, the Federal Information Resources Management Regulation (FIRMR) was repealed. A provision of the FIRMR, section 201–21.603, related to listening-in to or recording telephone conversations. As a result of the repeal of the FIRMR, we are now proposing to promulgate our own regulations describing the limited circumstances under which SSA employees may listen-in to or record telephone conversations. These circumstances include law enforcement/national security, public safety, public service monitoring, and all-party consent situations. We also describe in the proposed regulations the procedures we will follow in determining the circumstances in which we will permit listening-in to or recording telephone conversations, who will listen-in to or record the conversations, and other policies and procedures which we will follow in connection with this activity.

SSA is committed to providing the public with the highest level of service by ensuring that information provided by SSA employees is delivered accurately and courteously. To ensure that commitment, we conduct monitoring of telephone calls over various designated SSA

telecommunications lines as a training and mentoring tool.

We believe service observation is necessary to effectively perform SSA's mission. Therefore, we also conduct monitoring of telephone conversations to provide an objective assessment of SSA's telephone accuracy and courtesy. Data obtained through service observation are also used to comply with a congressional request that SSA provide Congress with information regarding teleservice center service levels on a continuing basis. This is done in the agency's Annual Financial Statement of Major Performance Measures. SSA's service observation activities are valuable to the public, not only because the data obtained are used to evaluate the accuracy of SSA's teleservice, but also because the service observation findings are used to make recommendations for improving teleservice procedures and processes. Data obtained through service observation are also used to respond to other oversight groups on how well SSA serves the public, for corrective action recommendation purposes, and for assisting in agency planning and decisionmaking.

Finally, SSA currently conducts recording of incoming calls on the emergency telephone lines assigned to SSA headquarters. We believe the recording of emergency calls is in the best interest of public safety and agency emergency service.

The main purpose of these proposed regulations is to inform the public and SSA employees of the circumstances under which SSA will listen-in to or record telephone conversations. The proposed regulations also contain language which differs from the repealed FIRMR which prohibited the annotating, e.g., writing down, of personal information such as a beneficiary's name, Social Security number, etc., when monitoring telephone calls. Since SSA has the responsibility to pay benefits correctly and to provide the public with accurate information, as well as to safeguard the trust funds, the proposed regulations will allow authorized employees to write down personal information obtained when listening-in to telephone calls. Annotated information obtained from public service monitoring will be used for programmatic or policy purposes; e.g., for recontacting individuals to correct or supplement information relating to benefits, for assessment of current/proposed policies and procedures, or to correct SSA records, etc.

## Explanation of Proposed Regulations

We are proposing to add a new subpart H to part 422 of our rules which will contain regulations relating to the use of SSA's telephone lines. We propose three sections for this new subpart H. In § 422.701, we propose to explain the scope and purpose of subpart H. In § 422.705, we propose to explain when SSA employees may listen-in to or record telephone conversations. Finally, in § 422.710, we propose to describe the procedures we will follow when we plan to listen-in to or record telephone calls, who will do it, and other policies and procedures which we will follow.

## Electronic Versions

The electronic file of this document is available on the Federal Bulletin Board (FBB) at 9:00 a.m. on the date of the publication in the **Federal Register**. To download the file, modem dial (202) 512-1387. The FBB instructions will explain how to download the file and the fee. This file is in WordPerfect and will remain on the FBB during the comment period.

## Regulatory Procedures

### Executive Order 12866

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

### Regulatory Flexibility Act

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

### Paperwork Reduction Act

These proposed regulations impose no additional reporting or recordkeeping requirements necessitating clearance by OMB.

(Catalog of Federal Domestic Assistance Program Nos. 93-773 Medicare-Hospital Insurance; 93-774 Medicare-Supplementary Medical Insurance; 96.001 Social Security-Disability Insurance; 96.002 Social Security-Retirement Insurance; 96-003 Special Benefits for Persons Aged 72 and Over; 96.004 Social Security-Survivors Insurance; 96-005 Special Benefits for Disabled Coal Miners; and 96-006 Supplemental Security Income.)

## List of Subjects in 20 CFR Part 422

Administrative practice and procedure, Freedom of information, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Social security.

Dated: February 27, 1998.

**Kenneth S. Apfel,**

*Commissioner of Social Security.*

For the reasons set out in the preamble, we are proposing to amend part 422 of chapter III of title 20 of the Code of Federal Regulations as follows:

## PART 422—ORGANIZATION AND PROCEDURES

1. Subpart H is added to Part 422 to read as follows:

### Subpart H—Use of SSA Telephone Lines

Sec.

422.701 Scope and Purpose.

422.705 When SSA employees may listen-in to or record telephone conversations.

422.710 Procedures SSA will follow.

### Subpart H—Use of SSA Telephone Lines

**Authority:** Secs. 205(a) and 702(a)(5) of the Social Security Act (42 U.S.C. 405 and 902(a)(5)).

### § 422.701 Scope and purpose.

The regulations in this subpart describe the limited circumstances under which SSA is authorized to listen-in to or record telephone conversations. The purpose of this subpart is to inform the public and SSA employees of those circumstances and the procedures that SSA will follow when conducting telephone service observation activities.

### § 422.705 When SSA employees may listen-in to or record telephone conversations.

SSA employees may listen-in to or record telephone conversations on SSA telephone lines under the following conditions:

(a) *Law enforcement/national security.* When performed for law enforcement, foreign intelligence, counterintelligence or communications security purposes when determined necessary by the Commissioner of Social Security or designee. Such determinations shall be in writing and shall be made in accordance with applicable laws, regulations and Executive Orders governing such activities. Communications security monitoring shall be conducted in accordance with procedures approved by the Attorney General. Line identification equipment may be

installed on SSA telephone lines to assist Federal law enforcement officials in investigating threatening telephone calls, bomb threats and other criminal activities.

(b) *Public safety.* When performed by an SSA employee for public safety purposes and when documented by a written determination by the Commissioner of Social Security or designee citing the public safety needs. The determination shall identify the segment of the public needing protection and cite examples of the possible harm from which the public requires protection. Use of SSA telephone lines identified for reporting emergency and other public safety-related situations will be deemed as consent to public safety monitoring and recording. (See § 422.710(a)(1))

(c) *Public service monitoring.* When performed by an SSA employee after the Commissioner of Social Security or designee determines in writing that monitoring of such lines is necessary for the purposes of measuring or monitoring SSA's performance in the delivery of service to the public; or monitoring and improving the integrity, quality and utility of service provided to the public. Such monitoring will occur only on telephone lines used by employees to provide SSA-related information and services to the public. Use of such telephone lines will be deemed as consent to public service monitoring. (See § 422.710(a)(2) and (c)).

(d) *All-party consent.* When performed by an SSA employee with the prior consent of all parties for a specific instance. This includes telephone conferences, secretarial recordings and other administrative practices. The failure to identify all individuals listening to a conversation by speaker phone is not prohibited by this or any other section.

#### **§ 422.710 Procedures SSA will follow.**

SSA component(s) that plan to listen-in to or record telephone conversations under § 422.705(b) or (c) shall comply with the following procedures.

(a) Prepare a written certification of need to the Commissioner of Social Security or designee at least 30 days before the planned operational date. A certification as used in this section means a written justification signed by the Deputy Commissioner of the requesting SSA component or designee, that specifies general information on the following: The operational need for listening-in to or recording telephone conversations; the telephone lines and locations where monitoring is to be performed; the position titles (or a statement about the types) of SSA

employees involved in the listening-in to or recording of telephone conversations; the general operating times and an expiration date for the monitoring. This certification of need must identify the telephone lines which will be subject to monitoring, e.g., SSA 800 number voice and text telephone lines, and include current copies of any documentation, analyses, determinations, policies and procedures supporting the application, and the name and telephone number of a contact person in the SSA component which is requesting authority to listen-in to or record telephone conversations.

(1) When the request involves listening-in to or recording telephone conversations for public safety purposes, the requesting component head or designee must identify the segment of the public needing protection and cite examples of the possible harm from which the public requires protection.

(2) When the request involves listening-in to or recording telephone conversations for public service monitoring purposes, the requesting component head or designee must provide a statement in writing why such monitoring is necessary for measuring or monitoring the performance in the delivery of SSA service to the public; or monitoring and improving the integrity, quality and utility of service provided to the public.

(b) At least every 5 years, SSA will review the need for each determination authorizing listening-in or recording activities in the agency. SSA components or authorized agents involved in conducting listening-in or recording activities must submit documentation as described in § 422.710(a) to the Commissioner of Social Security or a designee to continue or terminate telephone service observation activities.

(c) SSA will comply with the following controls, policies and procedures when listening-in or recording is associated with public service monitoring.

(1) SSA will provide a message on SSA telephone lines subject to public service monitoring that will inform callers that calls on those lines may be monitored for quality assurance purposes. SSA will also continue to include information about telephone monitoring activities in SSA brochures and/or pamphlets as notification that some incoming and outgoing SSA telephone calls are monitored to ensure SSA's clients are receiving accurate and courteous service.

(2) SSA employees authorized to listen-in to or record telephone calls are

permitted to annotate personal identifying information about the calls, such as a person's name, Social Security number, address and/or telephone number. When this information is obtained from public service monitoring as defined in § 422.705(c), it will be used for programmatic or policy purposes; e.g., recontacting individuals to correct or supplement information relating to benefits, for assessment of current/proposed policies and procedures, or to correct SSA records. Privacy Act requirements must be followed if data are retrievable by personal identifying information.

(3) SSA will take appropriate corrective action, when possible, if information obtained from monitoring indicates SSA may have taken an incorrect action which could affect the payment of or eligibility to SSA benefits.

(4) Telephone instruments subject to public service monitoring will be conspicuously labeled.

(5) Consent from both parties is needed to tape record SSA calls for public service monitoring purposes.

(d) The recordings and records pertaining to the listening-in to or recording of any conversations covered by this regulation shall be used, safeguarded and destroyed in accordance with SSA records management program.

[FR Doc. 98-6211 Filed 3-10-98; 8:45 am]

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## **DEPARTMENT OF DEFENSE**

### **Department of the Army**

#### **32 CFR Part 507**

#### **Manufacture, Sale, Wear, Commercial Use and Quality Control of Heraldic Items**

**AGENCY:** Department of the Army, DoD.  
**ACTION:** Proposed rule.

**SUMMARY:** This proposed revision authorizes the manufacture and sale of full size military medals and decorations. In the past the manufacture and sale of these items was prohibited except under Government contract through the Defense Personnel Support Center. In coordination with all the Services, the Office of the Secretary of Defense approved the manufacture and sale of full size military medals and decorations with the provision that no version of the Medal of Honor can be manufactured except under Government contract with the Defense Personnel Support Center. This proposed rule also