(2) The list referred to in paragraph (b)(1) of this section is:
(i) General Counsel;
(ii) Executive Director;
(iii) Director of the Office of Energy Market Regulation;
(iv) Director of the Office of Energy Projects;
(v) Director of the Office of Electric Reliability;
(vi) Director of the Office of Enforcement;
(vii) Director of the Office of Energy Infrastructure Security;
(viii) Deputy General Counsels, in order of seniority;
(ix) Deputy Directors, Office of Energy Market Regulation, in order of seniority;
(x) Deputy Directors, Office of Energy Projects, in order of seniority;
(xi) Deputy Directors, Office of Electric Reliability, in order of seniority;
(xii) Deputy Directors, Office of Enforcement, in order of seniority;
(xiii) Deputy Directors, Office of Energy Infrastructure Security, in order of seniority;
(xiv) Associate General Counsels and Solicitor, in order of seniority;
(xv) In order of seniority, Assistant Directors and Division heads, Office of Energy Market Regulation; Assistant Directors and Division heads, Office of Energy Projects; Assistant Directors and Division heads, Office of Electric Reliability; Deputy Associate General Counsels; Assistant Directors and Division heads, Office of Enforcement; Assistant Directors and Division heads, Office of Energy Infrastructure Security;
(xvi) In order of seniority, Regional Engineers and Branch Chiefs of the Office of Energy Projects' regional offices; and Deputy Division Directors and Group Managers of the Office of Electric Reliability's regional offices.
(3) For purposes of paragraph (b)(2)(viii)–(xvi) of this section, order of seniority shall be based on the highest grade and longest period of service in that grade and, furthermore, for purposes of paragraph (b)(2)(xv)–(xvi) of this section, order of seniority shall be without regard to the particular Office or Division or Branch or Group to which the member of staff is assigned.

(c) *Devolution of authority to Commission staff during emergencies affecting the National Capital Region.* (1) To the extent not otherwise provided by this section, during emergency conditions when the Chairman is not available and capable of acting, when no Commissioner is available and capable of acting, and when no person listed in paragraph (b)(2)(i)–(xvi) of this section who is located in the National Capital Region is available and capable of acting, the functions of the Commission are delegated, in order of seniority (as described in paragraph (b)(3) of this section), to Regional Engineers and Branch Chiefs of the Office of Energy Projects' regional offices and Deputy Division Directors and Group Managers of the Office of Electric Reliability's regional offices.

(2) Such delegation shall continue until such time as the Chairman is available and capable of acting, one or more Commissioners are available and capable of acting, or persons listed in paragraph (b)(2)(i)–(xvi) of this section who are located in the National Capital Region are available and capable of acting.

(d) *Reconsideration of staff action taken under delegations.* Action taken pursuant to the delegations provided for in this section shall be subject to reconsideration by the Commission, acting with a quorum, within thirty days after the date upon which public notice is given that a quorum of the Commission has been reconstituted and is functioning.

[FR Doc. 2025–00888 Filed 1–15–25; 8:45 am]

BILLING CODE 6717–01–P

RAILROAD RETIREMENT BOARD

20 CFR Part 220

RIN 3220–AB71

Evidence of Disability

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (RRB) amends its regulations to designate additional acceptable medical sources in disability claims under the Railroad Retirement Act. This change recognizes the evolution of how medical care and treatment are delivered and aligns the RRB's acceptable medical sources with recently amended regulations of the Social Security Administration (SSA). Additionally, the changes clarify existing RRB policy regarding how evidence from medical sources, other than those designated as acceptable medical sources, will be evaluated.

DATES: This rule is effective March 17, 2025.

FOR FURTHER INFORMATION CONTACT: Peter J. Orlowicz, Senior Counsel, (312) 751–4922, *Peter.Orlowicz@rrb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background Information

The RRB published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on June 21, 2024 (89 FR 51990). The preamble to the NPRM discussed the changes from our current rules and our reasons for proposing those changes. In the NPRM, we proposed to designate additional acceptable medical sources (AMS) in disability claims under the Railroad Retirement Act. Although the RRB will accept and evaluate evidence from any relevant source, including medical sources not designated as an AMS, the RRB requires evidence about a claimant's impairment from an AMS to adjudicate a claim of disability.

The additional AMS we proposed to add are:

(1) Licensed or certified school psychologists, or other licensed or certified individuals with another title who perform the same function as a school psychologist in a school setting, for impairments of intellectual disability, learning disabilities, and borderline intellectual functioning only;

(2) Licensed podiatrists, for impairments of the foot or of the foot and ankle, depending on the scope of practice in the State in which the podiatrist practices;

(3) Qualified speech-language pathologists, for speech and language impairments only, and when either licensed by a State professional licensing agency, fully certified by a State education agency where the individual practices, or holding a Certificate of Clinical Competence in Speech-Language Pathology from the American Speech-Language-Hearing Association;

(4) Licensed audiologists, for impairments of hearing loss, auditory processing disorders, and balance disorders when such disorders are within the individual's licensed scope of practice;

(5) Licensed Advanced Practice Registered Nurses or other licensed advance practice nurses with another title, within the individual's scope of practice (this category includes, but is not limited to, Certified Nurse Midwives, Nurse Practitioners, Certified Registered Nurse Anesthetists, and Clinical Nurse Specialists); and

(6) Licensed Physician Assistants, for impairments within the individual's licensed scope of practice.

We provided 60 days for the public to comment on the NPRM. We received three comments: two comments were submitted by professional organizations representing medical providers who would be added as AMS under the proposed rule, and one comment was submitted by a public policy research group. All three comments were supportive of the proposed changes, with two commenters providing

additional suggestions as described below. We also identified and fixed two minor grammatical errors that do not affect the substance of the rule.

II. Public Comments

Comment: The American Academy of Physician Associates (AAPA) recommended that the regulation include ''physician assistant'' and ''physician associate'' as equivalent titles and list both in the regulation to avoid confusion. The AAPA explained the titles both refer to individuals who graduate from programs accredited by the same accrediting body, are certified by the same certifying organization, and have the same scope of practice. Individuals in this profession have historically been identified as ''physician assistants,'' but the official title is now recognized as ''physician associate'' as reflected in the title of the AAPA, other professional organizations, professional training programs, and state laws regarding licensure. Because the title change will take time to be formalized in all jurisdictions, the AAPA recommends that both ''physician assistant'' and ''physician associate'' be listed.

Response: We agree with this comment, and we revised the final regulatory text accordingly. Specifically, we revised the proposed regulatory text for PAs as AMS in final 220.46(a)(9) to read, ''Licensed Physician Assistants/Physician Associates (for impairments within the individual's licensed scope of practice).'' We do not view this as a substantive change in the scope of individuals the rule is intended to cover, nor do we understand the AAPA to be suggesting such a change in scope.

Comment: One commenter recommended clarifying who may qualify as an ''other licensed or certified individual . . . who perform the same function as a school psychologist in a school setting.'' The commenter expressed concern that special education teachers may possess certain state certifications to teach children with learning disabilities, but that state certification standards for special education teachers vary from state to state and a significant proportion of special education teachers may be teaching with a provisional or emergency appointment without having the necessary certification or experience to provide medical reports of intellectual disability, learning disabilities, or borderline intellectual functioning.

Response: We did not adopt this comment. Special education teachers and school psychologists are different and distinct professions with different certification standards. Section 8002(19) of the Every Student Succeeds Act, Public Law 114–95 (Dec. 10, 2015) identifies school psychologists as ''specialized instructional support personnel'' along with school counselors, school social workers, school nurses, speech language pathologists, and school librarians. In Organizational Principle 3 of its 2020 Professional Standards, the National Association of School Psychologists recommends the ratio of school psychologists to students should not exceed 1 school psychologist for every 500 students. While school psychologists work with other school personnel, including special education teachers, to perform their function, a special education teacher would not normally be performing the same function as a school psychologist in the school setting. We believe the residual clause for other licensed or certified individuals with different titles who are performing the same function in a school setting is sufficiently clear. An individual who lacks a certification or license equivalent to a school psychologist and who does not perform the same function as a school psychologist would not qualify as an AMS under this paragraph.

Comment: One commenter agreed with the addition of licensed podiatrists as AMS for impairments of the foot or foot and ankle, but advocated for the inclusion of other orthopedic specialists who are certified and trained to address issues of other skeletal structures.

Response: We did not adopt this comment. Many orthopedic specialists will qualify as an AMS because they are licensed medical or osteopathic doctors. To the extent that skeletal structure-related impairments are within the scope of practice for an Advanced Practice Registered Nurse or a Physician Assistant/Physician Associate, those individuals would also be qualified as an AMS without the need for separate discussion. In the case of other individuals who hold themselves out as orthopedic specialists but would not otherwise qualify as an AMS under those other categories, § 220.46(b) in the final rule acknowledges we will accept and consider evidence from such a medical source about the claimant's impairment(s) and the effect on the claimant's ability to work, but the presence of a medically determinable physical or mental impairment must be established with objective medical evidence from an AMS.

Regulatory Analysis

Executive Order 12866, as Supplemented by Executive Order 13563

The RRB, with the Office of Management and Budget, has determined that this is not a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Therefore, no regulatory impact analysis is required.

Executive Order 13132 (Federalism)

This proposed rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, the RRB believes that this proposed rule will not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Regulatory Flexibility Act

The RRB certifies that this rule will not have a significant economic impact on a substantial number of small entities because the rulemaking affects individuals only. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

This rule does not create any new or affect any existing collections and, therefore, does not require Office of Management and Budget approval under the Paperwork Reduction Act.

List of Subjects in 20 CFR Part 220

Disability benefits, Railroad employees, Railroad retirement.

For the reasons set out in the preamble, the Railroad Retirement Board amends 20 CFR part 220 as follows:

PART 220—DETERMINING DISABILITY

■ 1. The authority citation for part 220 continues to read as follows:

Authority: 45 U.S.C. 231a; 45 U.S.C. 231f.

■ 2. Amend § 220.46 by:
■ a. Revising paragraph (a);
■ b. Redesignating paragraphs (b) through (e) as paragraphs (c) through (f) respectively;
■ c. Adding new paragraph (b); and
■ d. Revising newly redesignated paragraphs (c)(6)(i), (c)(6)(ii) introductory text, (d) introductory text, (e), and (f).

The revisions and addition read as follows:

§ 220.46 Medical evidence.

(a) *Acceptable medical sources.* The Board needs reports about the claimant's impairment(s) from acceptable medical sources. Acceptable medical sources are—

(1) Licensed physicians (medical or osteopathic doctors);

(2) Licensed or certified psychologists at the independent practice level;

(3) Licensed or certified school psychologists, or other licensed or certified individuals with another title who perform the same function as a school psychologist in a school setting (for impairments of intellectual disability, learning disabilities, and borderline intellectual functioning only);

(4) Licensed optometrists (for impairments of visual disorders, or for the measurement of visual acuity and visual fields only, depending on the scope of practice in the State in which the optometrist practices);

(5) Licensed podiatrists (for impairments of the foot only, or foot and ankle only, depending on the scope of practice in the State in which the podiatrist practices);

(6) Qualified speech-language pathologists (for speech or language impairments only.) For this source, *qualified* means that the speech-language pathologist must be licensed by the State professional licensing agency, or be fully certified by the State education agency in the State in which the speech-language pathologist practices, or hold a Certificate of Clinical Competence in Speech-Language Pathology from the American Speech-Language-Hearing Association;

(7) Licensed audiologists (for impairments of hearing loss, auditory processing disorders, and balance disorders within the licensed scope of practice only);

(8) Licensed Advanced Practice Registered Nurses or other licensed advance practice nurses with another title (for impairments within the individual's licensed scope of practice only);

(9) Licensed Physician Assistants/Physician Associates (for impairments within the individual's licensed scope of practice); or

(10) Persons authorized to furnish a copy or summary of the records of a medical facility. Generally, the copy or summary should be certified as accurate by the custodian or by any authorized employee of the Railroad Retirement Board, Social Security Administration, Department of Veterans Affairs, or State agency.

(b) *Other medical sources.* Individuals who are licensed as healthcare workers by a State and are working within the scope of practice permitted under State or Federal law, other than acceptable medical sources identified in paragraph (a) of this section, are other medical sources. Examples include licensed clinical social workers, naturopaths, and chiropractors. The Board will accept and consider evidence from other medical sources about the claimant's impairment(s) and the effect on the claimant's ability to work, but the presence of a medically determinable physical or mental impairment must be established with objective medical evidence from an acceptable medical source as defined in paragraph (a) of this section.

(c) * * *

(6) * * *

(i) Statements about what the claimant can still do despite his or her impairment(s) based on the medical source's findings on factors in paragraphs (c)(1) through (5) of this section (except in disability claims for remarried widow's and surviving divorced spouses). (See § 220.112).

(ii) Statements about what the claimant can still do (based on the medical source's findings on factors in paragraphs (c)(1) through (5) of this section) should describe—

* * * * *

(d) *Completeness.* The medical evidence, including the clinical and laboratory findings, must be complete and detailed enough for the Board to determine whether the claimant is disabled. Specifically, it must allow the Board to determine—

* * * * *

(e) *Evidence from treating medical sources.* A statement by or the opinion of the claimant's treating medical source will not determine whether the claimant is disabled. However, the medical evidence provided by a treating medical source will be considered by the Board in making a disability decision. A treating medical source is a medical source to whom the claimant has been going for treatment on a continuing basis. The claimant may have more than one treating medical source. The Board may use consulting physicians or other medical consultants for specialized examinations or tests, to obtain more complete evidence, and to resolve any conflicts. A consulting physician is a doctor (often a specialist) to whom the claimant is referred for an examination once or on a limited basis. (See § 220.50 for an explanation of when the Board may request a consultative examination.)

(f) *Information from non-medical sources.* Information from other sources may also help the Board understand how an impairment affects the claimant's ability to work. Other sources include—

(1) Public and private social welfare agency personnel;

(2) Family members, caregivers, friends, and neighbors of the claimant;

(3) Educational personnel such as teachers, counselors, and daycare center workers;

(4) Railroad and nonrailroad employers; and,

(5) The claimants themselves.

Dated: January 7, 2025.

By Authority of the Board.

Stephanie Hillyard,

Secretary to the Board.

[FR Doc. 2025–00515 Filed 1–15–25; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 74

[Docket No. FDA–2023–N–0437]

Color Additive Petition From Center for Science in the Public Interest, et al.; Request To Revoke Color Additive Listing for Use of FD&C Red No. 3 in Food and Ingested Drugs

AGENCY: Food and Drug Administration, HHS.

ACTION: Final amendment; order.

SUMMARY: The Food and Drug Administration (FDA or we) is granting a color additive petition submitted by Center for Science in the Public Interest, et al., by repealing the color additive regulations that permit the use of FD&C Red No. 3 in foods (including dietary supplements) and in ingested drugs. The petitioners provided data demonstrating that this additive induces cancer in male rats. Therefore, FDA is revoking the authorized uses in food and ingested drugs of FD&C Red No. 3 in the color additive regulations.

DATES: This order is effective January 15, 2027, except for amendatory instruction 4, which is effective January 18, 2028. If any provisions are delayed or stayed by the filing of proper objections, FDA will publish such notification in the **Federal Register**. Submit either electronic or written objections and requests for a hearing on the order by February 18, 2025. See