

design changes merely "enhance [the Model 737's] already acceptable level of safety."

### Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

### Cost Impact

There are approximately 2,675 Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,091 airplanes of U.S. registry will be affected by this AD.

The FAA estimates that it will take approximately 1 work hour per airplane to accomplish the required one-time inspection of the engage solenoid valve, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the required inspection on U.S. operators is estimated to be \$65,460, or \$60 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Should an operator be required to replace an engage solenoid valve of the yaw damper, it will take approximately 3 work hours to accomplish the replacement, at an average labor rate of \$60 per work hour. Required parts will cost approximately \$1,688 per airplane. Based on these figures, the cost impact of any necessary replacement of an engage solenoid valve is estimated to be \$1,868 per airplane.

### Regulatory Impact

The regulations adopted herein 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 Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44

FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

**97-09-15 Boeing:** Amendment 39-10011. Docket 96-NM-151-AD.

**Applicability:** All Model 737-100, -200, -300, -400, and -500 series airplanes, certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent sudden uncommanded yawing of the airplane due to potential failures within the yaw damper system, and consequent injury to passengers and crewmembers, accomplish the following:

(a) Perform a one-time inspection of the engage solenoid valve of the yaw damper to determine the part number (P/N) of the valve. If any valve having Boeing P/N 10-60811-1 or -9, or Parker P/N 59600-5007 (Boeing P/N 10-60811-3) is installed, prior to further flight, replace it with a valve having Boeing P/N 10-60811-8 or -13, or Sterer P/N 45080

(Boeing P/N 10-60811-3). Accomplish the actions in accordance with procedures specified in Chapter 22-12-11 of the Boeing Maintenance Manual. Accomplish the inspection at the earlier of the times specified in paragraphs (a)(1) and (a)(2) of this AD.

(1) Within 5 years or 15,000 flight hours after the effective date of this AD, whichever occurs first.

(2) At the next time the PCU is sent to a repair facility.

**Note 2:** Boeing In-Service Activities Report 95-03-2725-10, dated February 16, 1995 (for Model 737-100 and -200 series airplanes), or 95-04-2725-10, dated February 24, 1995 (for Model 737-300, -400, and -500 series airplanes), provide additional information concerning interchangeability of solenoid valve part numbers.

**Note 3:** Operators should note that, as specified in paragraph (a) of this AD, both the Parker and Sterer P/N's have the same Boeing P/N (10-60811-3). If, upon inspection, Boeing P/N 10-60811-3 is found to be installed, operators must ascertain the vendor P/N. Parts having Boeing P/N 10-60811-3 and Parker P/N 59600-5007 must be replaced and are not considered to be acceptable replacement parts.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

**Note 4:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on June 9, 1997.

Issued in Renton, Washington, on April 24, 1997.

**Neil D. Schalekamp,**

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

[FR Doc. 97-11201 Filed 5-2-97; 8:45 am]

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## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Part 429

RIN 0960-AE51

### Administrative Regulations; Tort Claims

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

**ACTION:** Final rule.

**SUMMARY:** These final rules adopt as SSA rules the same procedures and

practices on tort claims against the Government that were applicable to SSA when it was a component of HHS. The Social Security Independence and Program Improvements Act of 1994 established the Social Security Administration as an independent agency in the executive branch of the United States Government effective March 31, 1995 and vested general regulatory authority in the Commissioner of Social Security. These regulations establish a new part 429 in title 20 of the Code of Federal Regulations.

**EFFECTIVE DATE:** These rules are effective May 5, 1997.

**FOR FURTHER INFORMATION CONTACT:** Suzanne DiMarino, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1769 for information about this rule. For information on eligibility or claiming benefits, call our national toll-free number, 1-800-772-1213.

**SUPPLEMENTARY INFORMATION:** Prior to March 31, 1995, SSA was an operating component of the Department of Health and Human Services (HHS) and the general regulatory authority for SSA programs and administration was vested in the Secretary of Health and Human Services (the Secretary) based on section 1102 of the Social Security Act (the Act) (42 U.S.C. § 1302). The SSIPIA established SSA as an independent agency in the Executive Branch of the Federal government effective March 31, 1995 and vested general regulatory authority in the Commissioner of Social Security (the Commissioner). SSA continues to administer the old-age, survivors, and disability insurance programs under title II and the supplemental security income program under title XVI.

These final rules adopt, with only technical changes, into a new part 429 for SSA, the same procedures and practices set out in 45 CFR part 35, entitled, Tort Claims Against the Government. The rules at 45 CFR part 35 prescribe the procedure HHS follows when claims are asserted under the Federal Tort Claims Act for money damages against the United States for damage to or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any HHS employee.

All changes are technical, that is, changes in names, addresses and legal citations, or paragraph redesignation. These final rules also amend our regulations to revise references to HHS, HEW or "the Secretary" to refer to the Social Security Administration or "the

Commissioner". They also delete references to other operating divisions, major components, or principal operating components of HEW or HHS and refer solely to SSA.

#### Electronic Version

The electronic file of this document is available on the Federal Bulletin Board (FBB) at 9:00 a.m. on the date of 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.

#### Regulatory Procedures

When required, SSA follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553. The APA provides exceptions to its prior notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, since these final rules reflect a continuation of the procedures and practices in effect when SSA was an operating component of the HHS, notice of proposed rulemaking and public comment procedures are unnecessary. Accordingly, we have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures in this case. Good cause exists because the only changes are minor and technical in nature. These changes make no substantive change in the regulations and have no impact on the public. Therefore, opportunity for prior comment is unnecessary, and we are issuing these changes to our regulations as a final rule.

SSA is not providing a 30-day delay in the effective date of this final rule under 5 U.S.C. 553(d). This is not a substantive rule, and there is no change in policy. Accordingly, it is in the public interest to make these regulations effective on publication.

#### Executive Order 12866

SSA has consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, it was not subject to OMB review.

#### Regulatory Flexibility Act

SSA certifies that this final rule will not have a significant economic impact on a substantial number of small entities since it makes no changes in policy. Therefore, a regulatory flexibility

analysis as provided in Public Law 96-354, the Regulatory Flexibility Act, is not required.

#### Paperwork Reduction Act

This final rule imposes no additional reporting or recordkeeping requirements subject to OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 96.001 Social Security-Disability Insurance; 96.002 Social Security-Retirement Insurance; 96.003 Social Security-Special Benefits for Persons Aged 72 and Over; 96.004 Social Security-Survivors Insurance; 96.005 Special Benefits for Disabled Coal Miners; 96.006 Supplemental Security Income; 96.007 Social Security-Research and Demonstration)

#### List of Subjects in 20 CFR Part 429

Claims.

Dated: April 15, 1997.

**John J. Callahan,**

*Acting Commissioner of Social Security.*

For reasons set out in the preamble, Chapter III of Title 20 of the Code of Federal Regulations is amended by adding the following:

#### PART 429—ADMINISTRATIVE REGULATIONS

##### Tort Claims Against the Government

Sec.

- 429.101 Scope of regulations.
- 429.102 Administrative claims; when presented; place of filing.
- 429.103 Administrative claims; who may file.
- 429.104 Administrative claims; evidence and information to be submitted.
- 429.105 Investigation, examination, and determination of claims.
- 429.106 Final denial of claims.
- 429.107 Payment of approved claims.
- 429.108 Release.
- 429.109 Penalties.
- 429.110 Limitation on SSA's authority.

**Authority:** Sec. 702(a)(5) of the Social Security Act (42 U.S.C. § 902(a)(5)), 28 U.S.C. § 2672; 28 CFR Part 14.

##### § 429.101 Scope of regulations.

The regulations in this part shall apply only to claims asserted under the Federal Tort Claims Act, as amended, 28 U.S.C. sections 2671-2680, for money damages against the United States for damage to or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Social Security Administration (SSA) while acting within the scope of his office or employment.

##### § 429.102 Administrative claims; when presented; place of filing.

(a) For purposes of the regulations in this part, a claim shall be deemed to have been presented when SSA

receives, at a place designated in paragraph (c) of this section, an executed Standard Form 95 or other written notification of an incident accompanied by a claim for money damages in a sum certain for damage to or loss of property, for personal injury, or for death, alleged to have occurred by reason of the incident. A claim which should have been presented to SSA but which was mistakenly addressed to or filed with another Federal agency, shall be deemed to be presented to SSA as of the date that the claim is received by SSA. A claim mistakenly addressed to or filed with SSA shall forthwith be transferred to the appropriate Federal agency, if ascertainable, or returned to the claimant.

(b) A claim presented in compliance with paragraph (a) of this section may be amended by the claimant at any time prior to final action by the SSA Claims Officer or prior to the exercise of the claimant's option to bring suit under 28 U.S.C. 2675(a). Amendments shall be submitted in writing and signed by the claimant. Upon the timely filing of an amendment to a pending claim, SSA shall have 6 months in which to make a final disposition of the claim as amended and the claimant's option under 28 U.S.C. 2675(a) shall not accrue until 6 months after the filing of an amendment.

(c) Forms may be obtained from and claims may be filed with the SSA Claims Officer, Room 611, Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

**§ 429.103 Administrative claims; who may file.**

(a) A claim for injury to or loss of property may be presented by the owner of the property interest which is the subject of the claim, his duly authorized agent, or his legal representative.

(b) A claim for personal injury may be presented by the injured person, his duly authorized agent, or his legal representative.

(c) A claim based on death may be presented by the executor or administrator of the decedent's estate or by any other person legally entitled to assert such a claim under applicable state law.

(d) A claim for loss wholly compensated by an insurer with the rights of a subrogee may be presented by the insurer. A claim for loss partially compensated by an insurer with the rights of a subrogee may be presented by the insurer or the insured individually, as their respective interests appear, or jointly. Whenever an insurer presents a claim asserting the rights of a subrogee, he shall present with his claim

appropriate evidence that he has the rights of a subrogee.

(e) A claim presented by an agent or legal representative shall be presented in the name of the claimant, be signed by the agent or legal representative, show the title or legal capacity of the person signing, and be accompanied by evidence of his authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian, or other representative.

**§ 429.104 Administrative claims; evidence and information to be submitted.**

(a) Death. In support of a claim based on death, the claimant may be required to submit the following evidence or information:

(1) An authenticated death certificate or other competent evidence showing cause of death, date of death, and age of the decedent.

(2) Decedent's employment or occupation at time of death, including his monthly or yearly salary or earnings (if any), and the duration of his last employment or occupation.

(3) Full names, addresses, birth dates, kinship, and marital status of the decedent's survivors, including identification of those survivors who were dependent for support upon the decedent at the time of his death.

(4) Degree of support afforded by the decedent to each survivor dependent upon him for support at the time of his death.

(5) Decedent's general physical and mental condition before death.

(6) Itemized bills for medical and burial expenses incurred by reason of the incident causing death, or itemized receipts of payments for such expenses.

(7) If damages for pain and suffering prior to death are claimed, a physician's detailed statement specifying the injuries suffered, duration of pain and suffering, any drugs administered for pain and the decedent's physical condition in the interval between injury and death.

(8) Any other evidence or information which may have a bearing on either the responsibility of the United States for the death or the damages claimed.

(b) Personal injury. In support of a claim for personal injury, including pain and suffering, the claimant may be required to submit the following evidence or information:

(1) A written report by his attending physician or dentist setting forth the nature and extent of the injury, nature and extent of treatment, any degree of temporary or permanent disability, the prognosis, period of hospitalization, and any diminished earning capacity. In addition, the claimant may be required

to submit to a physical or mental examination by a physician employed or designated by SSA. A copy of the report of the examining physician shall be made available to the claimant upon the claimant's written request provided that claimant has, upon request, furnished the report referred to in the first sentence of this paragraph (b)(1) and has made or agrees to make available to SSA any other physician's reports previously or thereafter made of the physical or mental condition which is the subject matter of his claim.

(2) Itemized bills for medical, dental, and hospital expenses incurred, or itemized receipts of payment for such expenses.

(3) If the prognosis reveals the necessity for future treatment, a statement of expected duration of and expenses for such treatment.

(4) If a claim is made for loss of time from employment, a written statement from his employer showing actual time lost from employment, whether he is a full or part-time employee, and wages or salary actually lost.

(5) If a claim is made for loss of income and the claimant is self-employed, documentary evidence showing the amount of earnings actually lost.

(6) Any other evidence or information which may have a bearing on either the responsibility of the United States for the personal injury or the damages claimed.

(c) Property damage. In support of a claim for damage to or loss of property, real or personal, the claimant may be required to submit the following evidence or information:

(1) Proof of ownership.

(2) A detailed statement of the amount claimed with respect to each item of property.

(3) An itemized receipt of payment for necessary repairs or itemized written estimates of the cost of such repairs.

(4) A statement listing date of purchase, purchase price, market value of the property as of date of damage, and salvage value, where repair is not economical.

(5) Any other evidence or information which may have a bearing either on the responsibility of the United States for the injury to or loss of property or the damages claimed.

(d) Time limit. All evidence required to be submitted by this section shall be furnished by the claimant within a reasonable time. Failure of a claimant to furnish evidence necessary to a determination of his claim within three months after a request therefor has been mailed to his last known address may be deemed an abandonment of the claim.

The claim may be thereupon disallowed.

**§ 429.105 Investigation, examination, and determination of claims.**

When a claim is received, SSA shall make such investigation as may be necessary or appropriate for a determination of the validity of the claim and thereafter shall forward the claim, together with all pertinent material, and a recommendation based on the merits of the case, with regard to allowance or disallowance of the claim, to the SSA Claims Officer to whom authority has been delegated to adjust, determine, compromise and settle all claims hereunder.

**§ 429.106 Final denial of claims.**

(a) Final denial of an administrative claim shall be in writing and sent to the claimant, his attorney, or legal representative by certified or registered mail. The notification of final denial may include a statement of the reasons for the denial and shall include a statement that, if the claimant is dissatisfied with SSA's action, he may file suit in an appropriate U.S. District Court not later than 6 months after the date of mailing of the notification.

(b) Prior to the commencement of suit and prior to the expiration of the 6-month period after the date of mailing, by certified or registered mail of notice of final denial of the claim as provided in 28 U.S.C. 2401(b), a claimant, his duly authorized agent, or legal representative, may file a written request with SSA for reconsideration of a final denial of a claim under paragraph (a) of this section. Upon the timely filing of a request for reconsideration SSA shall have 6 months from the date of filing in which to make a final disposition of the claim and the claimant's option under 28 U.S.C. 2675(a) to bring suit shall not accrue until 6 months after the filing of a request for reconsideration. Final SSA action on a request for reconsideration shall be effected in accordance with the provisions of paragraph (a) of this section.

**§ 429.107 Payment of approved claims.**

(a) Upon allowance of his claim, claimant or his duly authorized agent shall sign the voucher for payment, Standard Form 1145, before payment is made.

(b) When the claimant is represented by an attorney, the voucher for payment (SF 1145) shall designate both the claimant and his attorney as "payees." The check shall be delivered to the attorney whose address shall appear on the voucher.

**§ 429.108 Release.**

Acceptance by the claimant, his agent or legal representative, of any award, compromise or settlement made hereunder, shall be final and conclusive on the claimant, his agent or legal representative and any other person on whose behalf or for whose benefit the claim has been presented, and shall constitute a complete release of any claim against the United States and against any employee of the Government whose act or omission gave rise to the claim, by reason of the same subject matter.

**§ 429.109 Penalties.**

A person who files a false claim or makes a false or fraudulent statement in a claim against the United States may be liable to a fine of not more than \$10,000 or to imprisonment of not more than 5 years, or both (18 U.S.C. §§ 287; 1001), and, in addition, to a forfeiture of \$2,000 and a penalty of double the loss or damage sustained by the United States (31 U.S.C. § 231).

**§ 429.110 Limitation on SSA's authority.**

(a) An award, compromise or settlement of a claim hereunder in excess of \$25,000 shall be effected only with the prior written approval of the Attorney General or his designee. For the purposes of this paragraph, a principal claim and any derivative or subrogated claim shall be treated as a single claim.

(b) An administrative claim may be adjusted, determined, compromised or settled hereunder only after consultation with the Department of Justice when, in the opinion of SSA:

(1) A new precedent or a new point of law is involved; or

(2) A question of policy is or may be involved; or

(3) The United States is or may be entitled to indemnity or contribution from a third party and SSA is unable to adjust the third party claim; or

(4) The compromise of a particular claim, as a practical matter, will or may control the disposition of a related claim in which the amount to be paid may exceed \$25,000.

(c) An administrative claim may be adjusted, determined, compromised or settled only after consultation with the Department of Justice when it is learned that the United States or an employee, agent or cost plus contractor of the United States is involved in litigation based on a claim arising out of the same incident or transaction.

[FR Doc. 97-11530 Filed 5-2-97; 8:45 am]

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**DEPARTMENT OF STATE**

**Bureau of Consular Affairs**

**22 CFR Part 41**

[Public Notice 2536]

**Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act; Validity of Nonimmigrant Visas**

**AGENCY:** Bureau of Consular Affairs, Department of State.

**ACTION:** Final rule.

**SUMMARY:** Section 632(b) of Pub. L. 104-208, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), enacted on September 30, 1996, amended the Immigration and Nationality Act (INA) to authorize the application of the nonimmigrant reciprocity rules to refugees and permanent residents on a reciprocal basis. Thus, on a reciprocal basis, permanent residents of a foreign country and aliens granted refugee status in that foreign country may have nonimmigrant visas issued pursuant to the same visa fee schedule and for the same period of validity as nationals of that country. This rule implements new INA 221(c) and amends the Department's regulations at 41.112(b) accordingly.

Additionally, effective April 1, 1994, the Department instructed all Foreign Service posts to cease issuing Burroughs nonimmigrant visas with indefinite validity. Foreign Service posts worldwide now issue only machine-readable visas (MRVs), a more technologically advanced and secure type of visa. The Department is, therefore, amending its regulations by changing the maximum validity of nonimmigrant visas from "indefinite" to "ten years" to conform to the applicable technology mandated by Congress.

**DATES:** This rule is effective May 5, 1997.

**ADDRESSES:** Chief, Legislation and Regulation Division, Visa Office, Room L603-C, SA-1, Washington, D.C. 20520-0106.

**FOR FURTHER INFORMATION CONTACT:** Stephen K. Fischel, Chief, Legislation and Regulations Division, (202) 663-1203.

**SUPPLEMENTARY INFORMATION:**

**IIRIRA Section 632(b)**

Section 632(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) amended INA 221(c). Under INA 221(c), aliens are accorded the same treatment upon a reciprocal basis as the alien's