

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 114

Administrative Claims Under the Tort Claims Act and Representations and Indemnification of SBA Employees

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: SBA is revising a portion of its rules governing Administrative Claims under the Tort Claims Act. Presently a claim must be presented to the SBA District Counsel for the SBA District Office in the same State as the claim. The SBA District Counsel has the authority to deny a tort claim of \$5,000 or less or to recommend any other action to the SBA General Counsel. This proposed rule will provide the same authority to Disaster Area Counsel when the claim is based on the acts or omissions of employees of SBA's Disaster Assistance Program. It will also vest authority to approve or deny a tort claim of \$25,000 or less with SBA's Associate General Counsel for Litigation, rather than the General Counsel.

DATES: Submit comments must on or before June 1, 1999.

ADDRESSES: Address comments Timothy Treanor, Chief Counsel to the Disaster Assistance Program, U.S. Small Business Administration, 409 3rd Street, SW., Suite 7500, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Timothy Treanor, (202) 205-6885.

SUPPLEMENTARY INFORMATION: Under the Disaster Assistance Program, SBA makes direct loans to individual and business victims of natural disasters. SBA makes these loans through an organizational structure that is separate and distinct from other SBA lending programs. The Disaster Assistance Program operates from four permanent Area Offices and from temporary local offices that are from time to time established to handle such disasters. SBA's Disaster Area Office employees and local office employees are located in different offices from other SBA

employees and report to different managers.

Currently, SBA's District Counsels who are not located in disaster offices have exclusive authority to investigate any claim arising within the jurisdiction covered by their Districts, including claims based on acts or omissions of Disaster Assistance employees. District Counsels also have the authority to deny or recommend approval of a claim for \$5,000 or less. Currently, for claims exceeding \$5,000 but less than \$25,000, District Counsels investigate claims and forward them with a recommendation to SBA's General Counsel.

Under this proposed regulation, a claimant could file a tort claim against SBA for the acts or omissions of an employee of SBA's Disaster Assistance Program either at the State's District Office (the one closest to the site of the injury if there are more than one District Offices) or at the nearest Disaster Area Office. The proposed regulation would provide authority identical to that of the District Counsel to the Disaster Area Counsel to investigate and make recommendations concerning claims arising from a Disaster Assistance employee's acts or omissions. It would also vest the Associate General Counsel for Litigation with the authority to decide claims of \$25,000 or less, which is in line with the Agency's current practice.

The proposed regulation also removes inaccurate language from § 114.105 concerning the requirement that District Counsel consult with the General Counsel before approving claims for less than \$5,000 (the District Counsel does not have the authority to approve such claims).

The proposed regulation also removes unnecessary language from §§ 114.106 and 114.108 which purports to characterize § 114.107, and makes other minor, technical changes.

Compliance with Executive Orders 12612, 12778, 12866, the Regulatory Flexibility Act (5 U.S.C. § 601 et seq.), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

SBA certifies that this proposed rule is not a significant rule within the meaning of Executive Order 12866; it is not likely to have an annual economic effect of \$100 million or more, result in a major increase in cost or prices, or have a significant adverse effect on competition or the United States economy. SBA also certifies that this

rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. § 601 et seq. This rule provides for the more efficient administration of SBA's responsibilities under the Federal Tort Claims Act and imposes neither fees or additional administrative responsibilities on small businesses. For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA certifies that this final rule contains no new reporting or record keeping requirements.

For purposes of Executive Order 12612, SBA certifies that this rule has no federalism implications warranting the preparation of a Federalism Assessment. For purposes of Executive Order 12778, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in Section 2 of that Order.

List of Subjects in 13 CFR Part 114

Claims.

For the reasons stated in the preamble, SBA proposes to amend 13 CFR part 114 as follows:

PART 114—ADMINISTRATIVE CLAIMS UNDER THE FEDERAL TORT CLAIMS ACT AND REPRESENTATION AND INDEMNIFICATION OF SBA EMPLOYEES

1. The authority citation for part 114 continues to read as follows:

Authority: 15 U.S.C. 634(b)(1), (b)(6); 28 U.S.C. 2672; 28 CFR 14.11.

2. Revise § 114.102 to read as follows:

§ 114.102. When, where, and how do I present a claim?

(a) *When.* You must present your claim within 2 years of the date of accrual.

(b) *Where.* You may present your claim at the SBA District Office nearest to the site of the action giving rise to the claim and within the same State as the site. If you claim is based on the acts or omissions of an employee of SBA's Disaster Assistance Program, you may present your claim either to the appropriate SBA District Office or to the Disaster Assistance Office nearest to the site of the action giving rise to the claim.

(c) *How.* You must use an official form which can be obtained from the SBA office where you file the claim or give other written notice of your claim,

stating the specific amount of your alleged damages and providing enough information to enable SBA to investigate your claim. You may present your claim in person or by mail, but your claim will not be considered presented until SBA receives the written information.

3. Revise § 114.105 (b) and (c) to read as follows:

§ 114.105 Who investigates and considers my claim?

* * * * *

(b) In those cases in which SBA investigates your claim, and which arise out of the acts or omissions of employees other than employees of the Disaster Assistance program, the SBA District Counsel in the office with jurisdiction over the site where the action giving rise to the claim occurred will investigate and make recommendations or a determination with respect to your claim. In those cases in which SBA investigates your claim, and which arise out of acts or omissions of Disaster Assistance Program employees, the SBA Disaster Area Counsel in the office with jurisdiction over the site where the action giving rise to the claim occurred will investigate and make recommendations or a determination with respect to your claim. The District Counsel, or Disaster Area Counsel, where appropriate, may negotiate with you, and is authorized to use alternative dispute resolution mechanisms, which are non-binding on SBA, when they may promote the prompt, fair, and efficient resolution of your claim.

(c) If your claim is for \$5,000 or less, the District Counsel or Disaster Area Counsel who investigates your claim may deny the claim, or may recommend approval, compromise, or settlement of the claim to the Associate General Counsel for Litigation, who will in such a case take final action.

4. Revise § 114.106 to read as follows:

§ 114.106 What if my claim exceeds \$5,000?

The District Counsel or Disaster Area Counsel, as appropriate, must review and investigate your claim and forward it with a report and recommendation to the Associate General Counsel for Litigation or designee, who may approve or deny an award, compromise, or settlement of claims in excess of \$5,000, but not exceeding \$25,000.

5. Revise § 114.108 to read as follows:

§ 114.108 What if my claim is approved?

SBA will notify you in writing if it approves your claim. The District Counsel or Disaster Area Counsel investigating your claim will forward to you, your agent, or legal representative the forms necessary to indicate satisfaction of your claim and your

acceptance of the payment. Acceptance by you, your agent, or your legal representative of any award, compromise, or settlement releases all your claims against the United States under the Federal Tort Claims Act. This means that it binds you, your agent, or your legal representative, and any other person on whose behalf or for whose benefit the claim was presented. It also constitutes a complete release of our claim against the United States and its employees. If you are represented by counsel, SBA will designate you and your counsel as joint payees and will deliver the check to counsel. Payment is contingent upon the waiver of your claim and is subject to the availability of appropriated funds.

Aida Alvarez,
Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99-ASO-6]

Proposed Amendment to Class D and Class E Airspace; San Juan, PR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The notice proposes to amend Class D airspace at Fernando Luis Ribas Dominicci Airport, San Juan, PR, and Class E5 airspace at Luis Munoz Marin International Airport, San Juan, PR. A Global Positioning System (GPS) Runway (RWY) 9 Standard Instrument Approach Procedure (SIAP) has been developed for Fernando Luis Ribas Dominicci Airport. As a result, additional Class D controlled airspace for the Fernando Luis Ribas Dominicci Airport extending upward from the surface and additional Class E5 controlled airspace for the Luis Munoz Marin International Airport, extending upward from 700 feet above the surface is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at Fernando Luis Ribas Dominicci Airport. The Class D airspace would be increased from a 3 mile to a 3.9-mile radius of Fernando Luis Ribas Dominicci Airport and within 1 mile each side of the 275 degree bearing from the Fernando Luis Ribas Dominicci Airport, extending from the 3.9-mile radius to 5.3 miles west of the airport. The Class E5 airspace area for the Luis Munoz Marin International Airport would be increased within 1 mile each

side of the 275 degree bearing from the Fernando Luis Ribas Dominicci Airport, extending 2.5 miles west of the 13-mile radius of the Luis Munoz Marin International Airport. The operating status of the Fernando Luis Ribas Dominicci Airport will change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP.

DATES: Comments must be received on or before June 1, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 99-ASO-6, Manager, Airspace Branch, ASO-520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305-5627.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5627.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 99-ASO-6." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments.