

(3) Assuming infinite fragment energy, and analyzing the trajectory of the probable fragments and components, any hazard due to liberated engine parts or components will be minimized and the possibility of crew injury eliminated. Minimization must be considered during initial design and not presented as an analysis after design completion.

Issued in Kansas City, Missouri, on July 2, 2009.

Scott A. Horn,

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

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SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA-2009-0023]

RIN 0960-AH01

Attorney Advisor Program Sunset Date Extension

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: We are extending for two years our rule authorizing attorney advisors to conduct certain prehearing procedures and to issue fully favorable decisions. The current rule is scheduled to expire on August 10, 2009. In this final rule, we are extending the sunset date to August 10, 2011. We are making no other substantive changes.

DATES: This final rule is effective July 13, 2009.

FOR FURTHER INFORMATION CONTACT: Marilyn Hull, Social Security Administration, 5107 Leesburg Pike, Falls Church, VA 22041-3260, 703-605-8500 for information about this final rule. 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>.

Background

On August 9, 2007, we issued an interim final rule permitting some attorney advisors to conduct certain prehearing procedures. 72 FR 44763. We instituted this practice to enable us to provide more timely service to the increasing number of applicants for Social Security disability benefits and SSI payments based on disability. We considered the public comments we received on the interim final rule and, on March 3, 2008, issued the rule without change as a final rule. 73 FR 11349. Under this rule, attorney advisors may develop claims and, in appropriate cases, issue fully favorable decisions.

We included in the interim final rule a provision that the program would end on August 10, 2009, unless we decided to either terminate the rule earlier or to extend it beyond that date. We explained that we would announce any such termination or extension by publishing a final rule. 72 FR 44763, 44764 (August 10, 2007).

Explanation of Changes

The number of requests for hearings has increased significantly in recent years, and we expect that trend to continue. While we are pursuing a number of initiatives to address this increase, it will take time to feel the full effects. The attorney advisor program is an important part of our ongoing efforts to decide cases efficiently, issue decisions timely, and reduce the number of claims pending at the hearing level. Accordingly, we have decided to extend the attorney advisor rule for two more years, until August 10, 2011. As before, we are reserving the authority to end the program earlier, or to extend it, by publishing a final rule in the **Federal Register**.

We are also making a minor editorial change to the language in this rule. We are changing the term “wholly favorable” to “fully favorable” in §§ 404.942 and 416.1442, for clarity and consistency.

Regulatory Procedures

Justification for Issuing Final Rule Without Notice and Comment

We follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 when developing regulations. Section

702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5). The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures because they are impracticable, unnecessary, or contrary to the public interest. We have determined that good cause exists for dispensing with the notice and public comment procedures for this rule. 5 U.S.C. 553(b)(B). Good cause exists because this final rule only extends the sunset date of an existing rule. It makes no substantive changes to the rule. The current regulations expressly provide that we may extend or terminate this rule. Therefore, we have determined that opportunity for prior comment is unnecessary, and we are issuing this rule as a final rule.

In addition, because we are not making any substantive changes to an existing rule, there is good cause for dispensing with the 30-day delay in the effective date of a substantive rule provided by 5 U.S.C. 553(d)(3). To ensure that we have uninterrupted authority to use attorney advisors to reduce the number of pending cases at the hearing level, it is in the public interest to make this final rule effective on the date of publication.

Executive Order 12866

We have 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 and was not subject to OMB formal review.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities as it affects only persons. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

This final rule contains reporting requirements in the regulation sections listed below. However, because there are fewer than ten respondents for each section, the Paperwork Reduction Act of 1995 does not require us to seek OMB clearance for these sections.

| Regulation section | Description of public reporting requirement | Number of respondents (annually) | Frequency of response | Average burden per response (minutes) | Estimated annual burden |
|-----------------------------|---|----------------------------------|-----------------------|---------------------------------------|-------------------------|
| 404.942(a), 416.1442(a). | If prehearing proceedings are not complete before the date of a hearing, an administrative law judge (ALJ) will receive the case unless a fully favorable decision is in process or all of the parties in the hearing agree in writing to delay the hearing until the proceedings are completed. | Less than 10 (PRA exempt). | | | |
| 404.942(d), 416.1442(d). | If the attorney advisor issues a fully favorable decision under this section, we will mail a written notice of the decision to all parties at their last known address. We will state the basis for the decision and advise all parties that an ALJ will dismiss the hearing request unless a party requests that the hearing proceed. Parties who want to proceed with the hearing must request in writing within 30 days after the notice of the attorney advisor's decision is mailed. | Less than 10 (PRA exempt). | | | |
| Totals | | N/A | | | N/A |

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors 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: July 7, 2009.

Michael J. Astrue,
Commissioner of Social Security.

■ For the reasons stated in the preamble, we are amending subpart J of part 404 and subpart N of part 416 of chapter III of title 20 of the Code of Federal Regulations as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE

(1950—)

Subpart J—[Amended]

■ 1. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 204(f), 205(a), (b), (d)–(h), and (j), 221, 223(i), 225, and 702(a)(5)

of the Social Security Act (42 U.S.C. 401(j), 404(f), 405(a), (b), (d)–(h), and (j), 421, 423(i), 425, and 902(a)(5)); sec. 5, Public Law 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Public Law 98–460, 98 Stat. 1802 (42 U.S.C. 421 note); sec. 202, Public Law 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 2. In § 404.942, amend the second and fourth sentences of paragraph (a), paragraphs (b)(4) and (c)(2), and the first sentence of paragraph (d) by removing the words “wholly favorable” and adding in their place the words “fully favorable,” and revise paragraph (g) to read as follows:

§ 404.942 Prehearing proceedings and decisions by attorney advisors.

* * * * *

(g) *Sunset provision.* The provisions of this section will no longer be effective on August 10, 2011, unless we terminate them earlier or extend them beyond that date by notice of a final rule in the **Federal Register.**

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

Subpart N—[Amended]

■ 3. The authority citation for subpart N continues to read as follows:

Authority: Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b); sec. 202, Public Law 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 4. In § 416.1442, amend the second and fourth sentences of paragraph (a), paragraphs (b)(4) and (c)(2), and the first

sentence of paragraph (d) by removing the words “wholly favorable” and adding in their place the words “fully favorable,” and revise paragraph (g) to read as follows:

§ 416.1442 Prehearing proceedings and decisions by attorney advisors.

* * * * *

(g) *Sunset provision.* The provisions of this section will no longer be effective on August 10, 2011, unless we terminate them earlier or extend them beyond that date by notice of a final rule in the **Federal Register.**

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–09–0210]

Drawbridge Operation Regulations; Hackensack River, Jersey City, NJ, Maintenance

AGENCY: Coast Guard, DHS.

ACTION: Notice cancelling temporary deviation from regulations.

SUMMARY: The Coast Guard is cancelling the temporary deviation concerning the operation of the Witt Penn Bridge across the Hackensack River at mile 3.1, across the Hackensack River, at Jersey City, New Jersey. A temporary deviation was previously approved for the Lower Hack