

## Regulatory Impact

The regulations proposed herein would not have a substantial direct effect 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, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, 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 copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting 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.

## The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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:

**Bombardier, Inc. (Formerly de Havilland, Inc.):** Docket 99-NM-371-AD.

**Applicability:** Model DHC-8-100, -200, and -300 series airplanes, having serial numbers 003 through 528 inclusive and 531, certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been 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 damage of the upper wing ladder plates, which could result in displacement of the adjacent channel seals and consequent reduced lightning strike protection of the fuel tanks, accomplish the following:

#### Inspection and Repair

(a) Within 9 months or at the next maintenance period during which the fuel tanks are accessed after the effective date of this AD, whichever occurs earlier: Perform a one-time detailed visual inspection to detect damage (i.e., fretting and/or corrosion) of the ladder plates and access cover areas of the upper surface of the wings per paragraph III.A., III.B., or III.C., as applicable, of the Accomplishment Instructions of Bombardier Service Bulletin 8-57-41, Revision 'C', dated August 4, 2000.

**Note 2:** For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required."

(1) If no damage is detected, prior to further flight, install new 0.103-inch-diameter O-ring seals per paragraph III.A., III.B., or III.C., as applicable, of the Accomplishment Instructions of the service bulletin.

(2) If any damage is detected that is within the limits specified in Generic Structural Repair Schemes Manual PSM 1-8-3RS or PSM 1-82-3RS (Chapter 57 Contents and Repair Index), before further flight, repair the damage per Generic Structural Repair Schemes Manual PSM 1-8-3RS or PSM 1-82-3RS (Chapter 57 Contents and Repair Index), and install new 0.103-inch-diameter O-ring seals per paragraph III.A., III.B., or III.C., as applicable, of the Accomplishment Instructions of the service bulletin.

(3) If any damage is detected that is outside the limits specified in Generic Structural Repair Schemes Manual PSM 1-8-3RS or PSM 1-82-3RS (Chapter 57 Contents and Repair Index), before further flight, repair per a method approved by the Manager, New York Aircraft Certification Office (ACO), FAA, and install new 0.103-inch-diameter O-ring seals.

**Note 3:** Although the Bombardier service bulletin includes references to solvents that are not available for use in the United States, operators may use appropriate substitute solvents per standard industry maintenance practices.

## Alternative Methods of Compliance

(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, New York ACO, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

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

## Special Flight Permits

(c) Special flight permits may be issued per §§ 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.

**Note 5:** The subject of this AD is addressed in Canadian airworthiness directive CF-99-20, dated July 20, 1999.

Issued in Renton, Washington, on December 29, 2000.

**Donald L. Riggins,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*  
[FR Doc. 01-342 Filed 1-4-01; 8:45 am]

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## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Parts 404 and 416

[Regs. Nos. 4 and 16]

**RIN 0960-AE97**

### Federal Old-Age, Survivors and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Scheduling Video Teleconference Hearings Before Administrative Law Judges

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** We propose to revise our rules to allow us to schedule video teleconference (VTC) hearings before administrative law judges (ALJs). We also propose to revise our rules so that if we schedule a VTC hearing for someone who does not want one, we will schedule a traditional, in-person hearing; that is, a hearing where all participants are at the same location. We also will schedule an in-person hearing if an individual objects to an expert witness testifying by VTC. We are proposing these revisions to provide us with greater flexibility in scheduling and holding hearings, to improve hearing process efficiency and to extend

another service delivery option to our customers.

**DATES:** To be sure that your comments are considered, we must receive them no later than March 6, 2001.

**ADDRESSES:** Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 17703, Baltimore, MD 21235-7703; sent by telefax to (410) 966-2830; sent by e-mail to [regulations@ssa.gov](mailto: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 21235-6401 between 8 a.m. and 4:30 p.m. on regular business days. Comments may be inspected during these hours by making arrangements with the contact person shown below.

**FOR FURTHER INFORMATION CONTACT:** Georgia E. Myers, Regulations Officer, Office of Process and Innovation Management, Social Security Administration, L2109 West Low Rise, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-3632 or TTY 1-800-988-5906, for information about this notice. 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 web site, Social Security Online, at [www.SSA.gov](http://www.SSA.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

Nationally, over 500,000 requests for a hearing before an ALJ are filed with us each year. Hearings have traditionally been held with all participants (the party(ies) to the hearing, the ALJ, and, as appropriate, the representative, medical and/or vocational expert witness(es), or a translator) present at the same location: either a hearing office or a remote hearing location. (To accommodate those individuals who do not live near a hearing office ALJs hold hearings at remote hearing locations which are generally at least 75 miles from a hearing office.) Approximately 40 percent of hearings are held at remote hearing locations.

To make travel to remote hearing locations as cost effective as possible, hearing offices wait until they have a sufficient number of requests for hearing to schedule a full day or, if travel to a remote hearing location requires an overnight stay, more than one day of hearings. Because of the need to accrue a docket, ALJs travel to some remote hearing locations infrequently. Because many remote hearing locations are in less-populous areas, it can be difficult to find an appropriate expert witness(es),

which may further delay scheduling a hearing. ALJs also travel from their assigned hearing offices to assist other hearing offices when the need arises.

Whether to conduct hearings at remote locations or assist other hearing offices, the time ALJs spend traveling could be used to perform other adjudicatory responsibilities.

In 1996 we published Social Security Ruling (SSR) 96-10p, Electronic Service Delivery (61 FR 68808). In SSR 96-10p, we explained that we planned to explore ways for our customers to do business with us electronically. We also explained that we would not require customers to do business with us electronically, but that we would use technology to provide options for different service deliveries. Video teleconferencing was one of the technologies we identified as having the potential to serve our customers better. (A video teleconference provides real-time transmission of audio and video between two or more locations and permits individuals to see, hear, and speak with each other as though they were at the same location.)

We recently completed tests in which we conducted video teleconference hearings between the Huntington, West Virginia, hearing office and its Prestonburg, Kentucky, remote location; the Albuquerque, New Mexico, hearing office and its El Paso, Texas, remote location; and the West Des Moines, Iowa, hearing office with tie-in to the Iowa Communications Network (ICN). (The ICN is a statewide network that places video teleconferencing facilities within about 20 miles of most Iowa residents.) We asked individuals to participate in the tests, but did not schedule a VTC hearing until we received an individual's written concurrence.

All three sites had some equipment problems, particularly at the beginning of the tests. Although we rescheduled delayed hearings as quickly as possible, some representatives advised their clients not to elect a video teleconference hearing based on their initial experiences, especially in the Albuquerque-El Paso and Huntington-Prestonburg tests. In those two tests, an individual who elected a video teleconference hearing still had to travel to a remote hearing location; the same remote hearing location to which he or she would have had to travel for an in-person hearing. Thus, although having a video teleconference hearing at either of these sites had the potential to provide a more expeditious hearing, there was no travel benefit to the individual. Because participation rates at Huntington-Prestonburg and

Albuquerque-El Paso were low we have not attempted to draw inferences about customer service or satisfaction from these tests.

Our experience was very different in Iowa, where we were not limited to using an established remote hearing location but had the benefit of the wide-ranging ICN. In Iowa, no one electing a video teleconference hearing had to travel more than about 20 miles from his or her home to have a hearing. The participation rate for the Iowa test was over 40 percent; that is, of the individuals to whom we offered a hearing, over 40 percent agreed to have, and had, a video teleconference hearing.

SSA surveyed participants from the three tests to assess customer satisfaction with video teleconference hearings. A large percentage of the Iowa respondents rated the VTC hearing as "convenient" or "very convenient," and overall service as either "good" or "very good." Test data show that processing time for video teleconference hearings was substantially less than for in-person remote location hearings during the same time period, and that the ratio of hearings held to hearings scheduled was significantly higher for video teleconference hearings than for in-person hearings. Being able to hold hearings as scheduled increases our efficiency because we do not have to recontact the individual to determine why he or she did not appear at a scheduled hearing nor reschedule the hearing (which can be time consuming, especially when an expert witness(es) has been scheduled to testify). Further, an ALJ does not spend time waiting for someone who does not appear, as would be the case in an in-person remote location hearing.

Based on all these factors—customer satisfaction, ability to provide more timely hearings, savings in ALJ travel time, faster case processing, and higher ratio of hearings held to hearings scheduled—we decided that conducting hearings by VTC is an efficient service delivery alternative. We also decided that scheduling a VTC hearing, rather than asking someone to elect a VTC hearing, would improve hearing office efficiency and would permit us to provide faster access to a hearing for some individuals.

We plan to begin using video teleconferencing facilities in the servicing area of a hearing office when the Associate Commissioner of the Office of Hearings and Appeals determines that hearings can be conducted more efficiently in that area by video teleconferencing than by conducting traditional, in-person hearings where all the participants are

at the same location. We foresee initially scheduling VTC hearings where we could provide faster access to a hearing because otherwise:

- We would need to accrue a docket for a remote hearing location.
- An ALJ would need to travel to assist another hearing office.
- An expert witness(es) or appropriate medical specialist(s) would not be available for a hearing location. (In such a case, all participants could be at different locations; for example, the ALJ at a hearing office, the individual at a remote hearing site or another hearing office, and the expert witness(es) at a third location.)

At first, we plan to locate most remote VTC hearing sites either in space where we have a long-term lease or in another federal building. We are investigating sharing VTC facilities with other federal agencies and states, and, if we can ensure privacy, we may eventually rent commercial space to expand VTC hearings as a service delivery option. Regardless of the type of facility, we will make certain that:

- The individual has the same access to the hearing record as he or she would have with an in-person hearing.
- There is a means of transmitting and receiving additional evidence between all locations and all participants.
- An assistant is present at the VTC hearing site to operate the equipment and provide other help, as required.
- The audio/video transmission is secure and the individual's privacy is protected.

We will follow the same procedures for audiotaping VTC hearings that we do for in-person hearings but will not videotape VTC hearings. We also will not necessarily schedule a VTC hearing for someone who asks for one. In many locations, especially in the near term, we may not have the capability to accommodate the request. As access to video teleconferencing expands, we will accommodate requests for VTC hearings as space and time permit. Should there be a problem with the VTC equipment, before or during a hearing, we will reschedule the hearing as we do now when unforeseen circumstances require us to reschedule a hearing: at the earliest time possible based on the request for hearing filing date.

Despite the fact that conducting hearings by VTC has the potential to improve customer service, under these regulations we will not require anyone to have a VTC hearing who does not want one. Under these regulations, if an individual objects to having a VTC hearing or to an expert witness(es) testifying by VTC we will schedule an

in-person hearing. In both instances, we will reschedule the hearing at the earliest time possible based on the request for hearing filing date.

To ensure that an individual fully understands the right to decline to have a VTC hearing or to have an expert witness(es) testify by VTC, the notice of VTC hearing will clearly state:

- What it means to have a VTC hearing.
- That we have scheduled a VTC hearing for him or her or have scheduled an expert witness(es) to testify by VTC.
- That we will schedule an in-person hearing if the individual tells us he or she does not want a VTC hearing or does not want an expert witness(es) to testify by VTC.
- How to tell us if he or she does not want to have a VTC hearing or does not want an expert witness(es) to testify by VTC.

We will collect information about VTC hearings to ensure that individuals:

- Understand they are not required to have a VTC hearing or to have an expert witness(es) testify by VTC.
- Know how to tell us if they do not want a VTC hearing or do not want an expert witness(es) to testify by VTC.
- Receive a full and fair hearing, and to ensure that:
  - There is no significant difference in the outcome of in-person and VTC hearings.
  - We maintain a high degree of accuracy in our hearing decisions.

#### Proposed Changes

We propose to revise 20 CFR 404.929 and 416.1429 to state that we will conduct hearings by VTC, in addition to in-person hearings at which all participants are present at the same location. We propose to revise 20 CFR 404.936 and 416.1436 to state that we may schedule a VTC hearing or an expert witness(es) to testify by Video teleconference, and if we do, and an individual tells us he or she wants an in-person hearing, we will schedule an in-person hearing. We propose to revise 20 CFR 404.938 and 416.1438 to state that if we schedule your hearing as a video teleconference hearing, or if we schedule a witness to appear at the hearing by video teleconference, the notice of hearing will provide information about a VTC hearing and about how you can tell us that you do not want to have a VTC hearing or have an expert witness testify by video teleconference.

#### Electronic Version

The electronic file of this document is available on the date of publication in

the **Federal Register** on the Internet site for the Government Printing Office, [http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html). It is also available on SSA's Internet site, SSA Online, at <http://www.ssa.gov>.

#### Clarity of the Proposed Rules

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your comments on how to make the rules easier to understand. For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rules easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?

#### 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. Therefore, they are not subject to OMB review.

##### *Regulatory Flexibility Act*

We certify that these proposed rules, if promulgated, 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*

There is a reporting requirement in proposed §§ 404.936 and 416.1436, which requires individuals to notify us if they object to having their hearing conducted or an expert witness(es) testify by video teleconference. As required by the Paperwork Reduction Act of 1995, we have submitted a copy of this information collection requirement to OMB for its review. Other organizations and individuals desiring to submit comments on the information collection requirements

should direct them to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building, Room 3208, Washington, DC 20503, ATTENTION: OMB Desk Officer for SSA.

The public reporting burden for this collection of information is estimated to average 10 minutes per response. This includes the time it will take to understand what is needed, gather the necessary facts, and provide the information needed. Under our near-term capability to conduct video teleconference hearings, we expect there will be 3,000 requests per year. Therefore, the annual reporting burden is expected to be 500 hours. If you have any comments or suggestions on this estimate, write to the Social Security Administration, ATTN: Reports Clearance Officer, 1-A-21 Operations Building, Baltimore, MD 21235.

SSA is soliciting comments from the public in order to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
  - Enhance the quality, utility, and clarity of the information to be collected; and
  - Minimize the burden of the collection of information on those who are to respond including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology (e.g., permitting electronic submission of responses).
- (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; 96.006, Supplemental Security Income.)

#### List of Subjects

##### 20 CFR Part 404

Administrative practice and procedure, Aged, 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: December 22, 2000.

**Kenneth S. Apfel,**  
*Commissioner of Social Security.*

For the reasons set out in the preamble, we propose to amend 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— )**

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, 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, 425, and 902(a)(5); 31 U.S.C. 3720A; sec. 5, Pub. L. 97-455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)-(e), and 15, Pub. L. 98-460, 98 Stat. 1802 (42 U.S.C. 421 note).

2. Section 404.929 is revised to read as follows:

#### **§ 404.929 Hearing before an administrative law judge—general.**

If you are dissatisfied with one of the determinations or decisions listed in § 404.930 of this part you may request a hearing. The Associate Commissioner for Hearings and Appeals, or his or her delegate, shall appoint an administrative law judge to conduct the hearing. If circumstances warrant, the Associate Commissioner, or his or her delegate, may assign your case to another administrative law judge. At the hearing you may appear in person (that is, where all participants are present at the same location) or by video teleconference, submit new evidence, examine the evidence used in making the determination or decision under review, and present and question witnesses. The administrative law judge who conducts the hearing may ask you questions. He or she shall issue a decision based on the hearing record. If you waive your right to appear at the hearing, either in person or by video teleconference, the administrative law judge will make a decision based on the evidence that is in the file and any new evidence that may have been submitted for consideration.

3. Section 404.936 is revised to read as follows:

#### **§ 404.936 Time, place and type of hearing before an administrative law judge.**

(a) We may schedule your hearing by video teleconference if we determine that it is more efficient to do so and the

technology is available in the area where you live. You will receive a written notice if we schedule a video teleconference hearing for you. The notice will tell you that if you do not want the hearing held by video teleconference, you must tell us so as explained in the notice, and we will schedule an in-person hearing for you.

(b) If we determine that it is not more efficient or if the technology is not available in the area where you live, we will schedule an in-person hearing for you. The administrative law judge sets the time and the place for the in-person hearing.

(c) The administrative law judge may change the site and/or time of the videoconference hearing or the time and place of the in-person hearing, if it is necessary. After sending you reasonable notice of the proposed action, the administrative law judge may adjourn or postpone the hearing or reopen it to receive additional evidence any time before he or she notifies you of a hearing decision. We hold hearings in the 50 States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico and the Virgin Islands.

(d) If you object to the site and/or time of your scheduled videoconference hearing or to the time and/or place of your scheduled in-person hearing, you must notify the administrative law judge at the earliest possible opportunity before the time set for the hearing. You must state the reason for your objection and state the site and/or time you want the videoconference hearing to be held or the time and/or place you want the in-person hearing to be held. If at all possible, the request should be in writing. The administrative law judge will change the site and/or time of the videoconference hearing or the time and/or place of the in-person hearing if you have good cause, as determined under paragraphs (e)(1) and (2) of this section. Section 404.938 of this part provides procedures we will follow when you do not respond to a notice of hearing.

(e) The administrative law judge will find good cause for changing the site and/or time of your scheduled videoconference hearing or the time and/or place of your scheduled in-person hearing, and will reschedule your hearing if your reason is one of the following circumstances and is supported by the evidence:

(1) You or your representative are unable to attend or to travel to the scheduled hearing because of a serious physical or mental condition, incapacitating injury, or death in the family; or

(2) Severe weather conditions make it impossible to travel to the hearing.

(f) In determining whether good cause exists in circumstances other than those set out in paragraph (e) of this section, the administrative law judge will consider your reason for requesting the change, the facts supporting it, and the impact of the proposed change on the efficient administration of the hearing process. Factors affecting the impact of the change include, but are not limited to, the effect on the processing of other scheduled hearings, delays which might occur in rescheduling your hearing, and whether any prior changes were granted to you. Examples of such other circumstances, which you might give for requesting a change in the time or place of the hearing, include, but are not limited to, the following:

(1) You have attempted to obtain a representative but need additional time;

(2) Your representative was appointed within 30 days of the scheduled hearing and needs additional time to prepare for the hearing;

(3) Your representative has a prior commitment to be in court or at another administrative hearing on the date scheduled for the hearing;

(4) A witness who will testify to facts material to your case would be unavailable to attend the scheduled hearing and the evidence cannot be otherwise obtained;

(5) Transportation is not readily available for you to travel to the hearing;

(6) You live closer to another hearing location; or

(7) You are unrepresented, and you are unable to respond to the notice of hearing because of any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have.

4. Section 404.938 is revised to read as follows:

**§ 404.938 Notice of hearing before an administrative law judge.**

(a) *General notice information:* After your hearing has been scheduled, we will mail notice of the hearing to you at your last known address, or give the notice to you by personal service, unless you have indicated in writing that you do not wish to receive this notice. The notice will be mailed or served at least 20 days before the hearing. The notice of hearing will contain a statement of the specific issues to be decided and tell you that you may designate a person to represent you during the proceedings. The notice will also contain an

explanation of the procedures for requesting a change in the time or place of your hearing, a reminder that if you fail to appear at your scheduled hearing

without good cause, the ALJ may dismiss your hearing request and other information about the scheduling and conduct of your hearing. If you or your representative do not acknowledge receipt of the notice of hearing, we will attempt to contact you for an explanation. If you tell us that you did not receive the notice of hearing, an amended notice will be sent to you by certified mail. See § 404.936 of this part for the procedures we will follow in deciding whether the time of your scheduled videoconference hearing or the time or place of your scheduled in-person hearing will be changed if you do not respond to the notice of hearing.

(b) *Hearing via video conferencing:* If we determine that it is more efficient and if the technology is available in the area where you live, we will schedule your hearing as a video teleconference. If we schedule a video teleconference for you, your notice, in addition to the information in paragraph (a) of this section, will also clearly state what it means to have a video teleconference hearing and if we have scheduled an expert witness(es) to testify by video teleconference. The notice will contain an explanation of how to let us know if you do not want to have a video teleconference hearing or do not want an expert witness to testify via video teleconference. We will schedule an in-person hearing for you if you tell us that you do not want a video teleconference hearing or do not want an expert witness to testify via video teleconference. Your notice will also contain an explanation of the procedures for requesting a change in the time of your scheduled videoconference hearing.

(c) *For a hearing in-person before an administrative law judge:* If we determine that it is not more efficient or if the technology is not available in the area where you live, an in-person hearing will be scheduled for you.

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

**Subpart N—[Amended]**

5. The authority citation for subpart N of part 416 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); 31 U.S.C. 3720A.

6. Section 416.1429 is revised to read as follows:

**§ 416.1429 Hearing before an administrative law judge—general.**

If you are dissatisfied with one of the determinations or decisions listed in

§ 416.1430 of this part you may request a hearing. The Associate Commissioner for Hearings and Appeals, or his or her delegate, shall appoint an administrative law judge to conduct the hearing. If circumstances warrant, the Associate Commissioner, or his or her delegate, may assign your case to another administrative law judge. At the hearing you may appear in person (that is, where all participants are present at the same location) or by video teleconference, submit new evidence, examine the evidence used in making the determination or decision under review, and present and question witnesses. The administrative law judge who conducts the hearing may ask you questions. He or she shall issue a decision based on the hearing record. If you waive your right to appear at a hearing, either in person or by video teleconference, the administrative law judge will make a decision based on the evidence that is in the file and any new evidence that may have been submitted for consideration.

7. Section 416.1436 is revised to read as follows:

**§ 416.1436 Time, place and type of hearing before an administrative law judge.**

(a) We may schedule your hearing by video teleconference if we determine that it is more efficient to do so and the technology is available in the area where you live. You will receive a written notice if we schedule a video teleconference hearing for you. The notice will tell you that if you do not want the hearing held by video teleconference, you must tell us so as explained in the notice, and we will schedule an in-person hearing for you.

(b) If we determine that it is not more efficient or if the technology is not available in the area where you live, we will schedule an in-person hearing for you. The administrative law judge sets the time and the place for the in-person hearing.

(c) The administrative law judge may change the site and/or time of the videoconference hearing or the time and place of the in-person hearing, if it is necessary. After sending you reasonable notice of the proposed action, the administrative law judge may adjourn or postpone the hearing or reopen it to receive additional evidence any time before he or she notifies you of a hearing decision. We hold hearings in the 50 States, the District of Columbia, and the Northern Mariana Islands.

(d) If you object to the site and/or time of your scheduled videoconference hearing or to the time and/or place of your scheduled in-person hearing, you must notify the administrative law judge

at the earliest possible opportunity before the time set for the hearing. You must state the reason for your objection and state the site and/or time you want the videoconference hearing to be held or the time and/or place you want the in-person hearing to be held. If at all possible, the request should be in writing. The administrative law judge will change the site and/or time of the videoconference hearing or the time and/or place of the in-person hearing if you have good cause, as determined under paragraphs (e)(1) and (2) of this section. Section 416.1438 of this part provides procedures we will follow when you do not respond to a notice of hearing.

(e) The administrative law judge will find good cause for changing the site and/or time of your scheduled videoconference hearing or the time and/or place of your scheduled in-person hearing, and will reschedule your hearing if your reason is one of the following circumstances and is supported by the evidence:

(1) You or your representative are unable to attend or to travel to the scheduled hearing because of a serious physical or mental condition, incapacitating injury, or death in the family; or

(2) Severe weather conditions make it impossible to travel to the hearing.

(f) In determining whether good cause exists in circumstances other than those set out in paragraph (e) of this section, the administrative law judge will consider your reason for requesting the change, the facts supporting it, and the impact of the proposed change on the efficient administration of the hearing process. Factors affecting the impact of the change include, but are not limited to, the effect on the processing of other scheduled hearings, delays which might occur in rescheduling your hearing, and whether any prior changes were granted to you. Examples of such other circumstances, which you might give for requesting a change in the time or place of the hearing, include, but are not limited to, the following:

(1) You have attempted to obtain a representative but need additional time;

(2) Your representative was appointed within 30 days of the scheduled hearing and needs additional time to prepare for the hearing;

(3) Your representative has a prior commitment to be in court or at another administrative hearing on the date scheduled for the hearing;

(4) A witness who will testify to facts material to your case would be unavailable to attend the scheduled hearing and the evidence cannot be otherwise obtained;

(5) Transportation is not readily available for you to travel to the hearing;

(6) You live closer to another hearing location; or

(7) You are unrepresented, and you are unable to respond to the notice of hearing because of any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have.

8. Section 416.1438 is revised to read as follows:

**§ 416.1438 Notice of a hearing before an administrative law judge.**

(a) *General notice information:* After your hearing has been scheduled, we will mail notice of the hearing to you at your last known address, or give the notice to you by personal service, unless you have indicated in writing that you do not wish to receive this notice. The notice will be mailed or served at least 20 days before the hearing. The notice of hearing will contain a statement of the specific issues to be decided and tell you that you may designate a person to represent you during the proceedings. The notice will also contain an explanation of the procedures for requesting a change in the time or place of your hearing, a reminder that if you fail to appear at your scheduled hearing without good cause, the ALJ may dismiss your hearing request and other information about the scheduling and conduct of your hearing. If you or your representative do not acknowledge receipt of the notice of hearing, we will attempt to contact you for an explanation. If you tell us that you did not receive the notice of hearing, an amended notice will be sent to you by certified mail. See § 416.1436 of this part for the procedures we will follow in deciding whether the time of your scheduled videoconference hearing or the time or place of your scheduled in-person hearing will be changed if you do not respond to the notice of hearing.

(b) *Hearing via video conferencing:* If we determine that it is more efficient and if the technology is available in the area where you live, we will schedule your hearing as a video teleconference. If we schedule a video teleconference for you, your notice, in addition to the information in paragraph (a) of this section, will also clearly state what it means to have a video teleconference hearing and if we have scheduled an expert witness(es) to testify by video teleconference. The notice will contain an explanation of how to let us know if you do not want to have a video teleconference hearing or do not want an expert witness to testify via video teleconference. We will schedule an in-person hearing for you if you tell us that

you do not want a video teleconference hearing or do not want an expert witness to testify via video teleconference. Your notice will also contain an explanation of the procedures for requesting a change in the time of your scheduled videoconference hearing.

(c) *For a hearing in-person before an administrative law judge:* If we determine that it is not more efficient or if the technology is not available in the area where you live, an in-person hearing will be scheduled for you.

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**DEPARTMENT OF STATE**

**22 CFR Part 41**

[Public Notice 3533]

RIN 1400-AA48

**Bureau of Consular Affairs; Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act—Amendment of Transit Without Visa (TWOV) List.**

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

**ACTION:** Proposed rule, with request for comments.

**SUMMARY:** This rule proposes to amend the Department of State regulation that allows for a waiver of the visa and passport requirement under the Transit Without Visa (TWOV) Program authorized under section 233 of the Immigration and Nationality Act (INA) for citizens of certain countries who are in immediate and continuous transit through the United States. The Department proposes to remove from the current regulation the list of countries ineligible to participate in the TWOV Program and to publish a separate list which will be updated and published periodically.

This rule also sets forth the criteria, which among other factors, will be used in determining which countries will be ineligible for the TWOV privilege.

**DATES:** Interested persons should submit comments on or before March 6, 2001.

**ADDRESSES:** Submit comments, in duplicate, to the Chief, Legislation and Regulations Division, Visa Services, Department of State, Washington, D.C. 20522-0113.

**FOR FURTHER INFORMATION CONTACT:** H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Room L603-C, SA-1, Department of State, Washington, D.C. 20520-0106, (202) 663-1204; or e-mail: [odomhe@state.gov](mailto:odomhe@state.gov).