

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** This document confirms the effective date of a direct final rule which revises Class E airspace at Kearney, NE.

**DATES:** The direct final rule published at 63 FR 44124 is effective on 0901 UTC, December 3, 1998.

**FOR FURTHER INFORMATION CONTACT:** Kathy Randolph, Air Traffic Division, Airspace Branch, ACE-520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426-3408.

**SUPPLEMENTARY INFORMATION:** The FAA published this direct final rule with a request for comments in the **Federal Register** on August 18, 1998 (63 FR 44124). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on December 3, 1998. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on October 1, 1998.

**Herman J. Lyons, Jr.,**  
Manager, Air Traffic Division, Central Region.  
[FR Doc. 98-28373 Filed 10-21-98; 8:45 am]

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## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Part 422

[Regulations No. 22]

RIN 0960-AE36

#### Permit the Department of State (DOS) and the Immigration and Naturalization Service (INS) To Collect Information Needed To Assign Social Security Numbers (SSNs) to Aliens

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

**ACTION:** Final rules.

**SUMMARY:** We describe how DOS and INS will provide us with information, collected as part of the immigration process, to enable us to assign SSNs and issue SSN cards to lawfully admitted aliens. We also are: amending the rule on the presumption of authority of a nonimmigrant alien to accept

employment to include circumstances where a Form I-94, "Arrival-Departure Record," has not been issued by INS; removing outdated rules on school and alien legalization enumeration; removing outdated rules on the application for a nonwork SSN; and, specifically acknowledging the requirement to complete a Form SS-5, "Application For A Social Security Card," to obtain a duplicate SSN card.

**EFFECTIVE DATE:** These rules are effective November 23, 1998.

**FOR FURTHER INFORMATION CONTACT:** Daniel T. Bridgewater, Legal Assistant, Office of Process and Innovation Management, Social Security Administration, L2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-3298 for information about these rules. For information on eligibility or claiming benefits, call our national toll-free number, 1-800-772-1213.

**SUPPLEMENTARY INFORMATION:**

#### Background

Currently, SSA assigns an SSN to an alien when the individual submits to an SSA field office (FO) a completed Form SS-5 and documentary evidence of age, identity, and lawful admission for permanent residence or other authority of law permitting work in the United States (U.S.). Any applicant age 18 and older applying for an original SSN card must appear for an in-person interview at any SSA field office.

The second phase of the National Performance Review (NPR), the Federal Reinventing Government effort, was announced by the President and Vice President on December 19, 1994. It was designed to focus attention on what each agency does, examining its mission and looking at its programs and functions to see if there are ways to provide better service to the public and, at the same time, do business in a more cost-effective manner, i.e., "make government work better and cost less." Each agency was asked to assemble a team to review its own programs and functions.

SSA's team worked closely with a team of representatives from the NPR and the Office of Management and Budget (OMB) to develop proposals for consideration. One of these proposals was for INS to assist SSA in enumerating aliens. On April 11, 1995, the President formally approved SSA's reinvention proposals and officially announced them the next day. When we began developing this proposal with INS, we found that we needed to include DOS to take into consideration

those aliens who enter the U.S. via foreign service posts.

#### Final Changes

These final rules describe the process by which elements of DOS and INS will collect and then forward enumeration information to SSA. Based on agreements among the three agencies (SSA, DOS, and INS), DOS and INS will collect this information, and INS will electronically transmit the information to SSA. DOS and INS will modify their forms to collect this information, and INS will retain the forms, which will be made available to SSA when necessary.

Assigning SSNs to aliens when they enter the U.S., based on information collected by DOS and INS as part of the immigration process, will improve the integrity of the SSN process. There is widespread counterfeiting of INS documents, and SSA employees must be familiar with a variety of INS documents and determine if those presented are valid. By having INS transmit enumeration information directly to SSA, the potential for SSA employees to inadvertently accept inappropriate and/or counterfeit documents will be reduced.

This initiative also supports SSA's goal of providing world class service to customers by making the means of dealing with SSA as easy and convenient as possible by providing options for service delivery. Aliens who currently must first contact INS and subsequently contact SSA will be able to accomplish both transactions in a single contact.

Further, the final changes will provide for increased overall Federal government efficiency. The new process will reduce the overall cost to the government of administering the enumeration process for aliens because it will eliminate duplicate work done by DOS, INS and SSA.

Because the involvement of the DOS and INS will improve the integrity of the SSN process for aliens, SSA is eliminating the mandatory in-person interview for aliens age 18 and older for whom INS forwards enumeration information to SSA. SSA will continue to interview aliens who apply for SSNs at SSA offices. This supports a 1995 recommendation from the Office of the Inspector General concerning transferring to INS and DOS the SSA FO interview workload for noncitizens applying for an original SSN card.

As part of the INS alien legalization program required under the Immigration Reform and Control Act of 1986, INS accepted applications and evidence for SSNs from legalization applicants and forwarded the applications to SSA for

assignment of SSNs. Once the legalization program ended on September 30, 1991, INS notified SSA that it was discontinuing the agreement and has since referred all aliens to SSA field offices to apply for SSN cards. These final rules eliminate references in the regulations to procedures which are no longer in effect.

The Tax Reform Act of 1986 required taxpayers to show the Taxpayer Identification Number (TIN) for any dependent age 5 and older listed on tax returns due on or after January 1, 1988. In general, SSNs serve as TINs. In an effort to lessen the burden on SSA field offices, SSA offices initiated school enumeration projects. Subsequent legislation required TINs for all dependents claimed on tax returns, regardless of age, so that most children have been assigned SSNs long before reaching school age and school enumeration projects are no longer practical. These final rules eliminate the reference to SSA entering into agreements with school authorities.

Currently, an alien lawfully in the United States without employment authorization, who wants to obtain an SSN, must provide evidence documenting a valid nonwork reason for needing an SSN, e.g., to receive a Federally-funded benefit or enlist in the uniformed services. Another reason, currently shown in our rules, is the Internal Revenue Service (IRS) requirement relating to the use of SSNs for tax purposes.

However, on July 1, 1996, IRS began assigning Individual Taxpayer Identification Numbers (ITINs) to aliens who are otherwise not eligible for SSNs but who need TINs for tax purposes. Therefore, needing an SSN for IRS tax reporting purposes is no longer a valid nonwork reason for SSA to assign an SSN, and we are eliminating such references.

We also are amending our regulations on the presumption of authority of a nonimmigrant alien to accept employment. As currently written, the regulations do not address the authority of a nonimmigrant alien to accept employment if INS has not issued the alien a Form I-94, which is generally issued by INS to a nonimmigrant alien upon arrival in the United States. Under certain circumstances, INS may grant employment authorization to an alien who has not been issued a Form I-94, e.g., an alien whose lawful alien status is pending, so that the individual may work during the period the application for lawful alien status is pending. The final rules clarify that a nonimmigrant alien who has not been issued a Form I-94, which reflects a classification

permitting work, must present a current employment authorization document (EAD) or other document authorized by INS which permits the alien to work. Such authority must be established before an SSN card which is valid for work purposes can be issued. Otherwise, an SSN card will be issued with a nonwork legend (i.e., "NOT VALID FOR EMPLOYMENT").

Additionally, we are specifically acknowledging the requirement to complete a Form SS-5 to obtain a duplicate SSN card. Although the completion of this form has been a longstanding requirement, our current rules do not specifically refer to it, as they do so in the sections in this subpart relating to applying for an original SSN card (see § 422.103) or a corrected SSN card (see § 422.110).

#### Explanation of Revisions

We are changing §§ 422.103, 422.107 and 422.110 to implement the initiative for DOS and INS to collect information to assign SSNs to aliens, and we are changing paragraph § 422.103(e) to provide a specific rule on the requirement to complete a Form SS-5 to apply for a duplicate SSN card.

We are changing §§ 422.104(b) and 422.107(a) to eliminate the references to IRS tax reporting purposes as a valid nonwork reason for SSA to assign an SSN, and we are changing § 422.105 to address the authority of a nonimmigrant alien to accept employment if INS has not issued the alien a Form I-94 which reflects a classification permitting work.

Additionally, we are eliminating references in § 422.106 to procedures concerning legalization applicants and SSA agreements with school authorities which are no longer in effect, and we are amending § 422.107 to eliminate the mandatory in-person interview requirement for aliens for whom INS forwards enumeration data to SSA.

On December 2, 1997, we published these final rules as proposed rules in the **Federal Register** at 62 FR 63681 with a 60-day comment period. We received comments from only one source.

The commenter raised several concerns about what will happen to refugees under the new enumeration process, such as the timeliness of issuing an SSN card, the need for an address to which the SSN card will be sent, and the requirement for documentary evidence. We believe that the overall process will be more timely for refugees as well as for other legally admitted aliens. If no personal mailing address is available, the SSN card will be sent to the sponsoring agency of the refugee. Usually, INS has this address since all refugees must have a

sponsoring agency. Also, the process will afford greater national uniformity by issuing the same type of SSN card (i.e., an unrestricted card) to all refugees.

Because of the circumstances causing refugees to flee their homes, when a refugee has no documents other than the one issued by INS, SSA currently accepts the INS document alone as documentary evidence of age, true identity, and alien status to assign an SSN. Under this initiative when INS admits an alien as a refugee and transmits the collected enumeration information to SSA, SSA will assign the refugee an SSN.

We believe that the comments do not warrant any changes in our proposed policy, except to clarify in section 422.103(c)(3) the address to which the SSN card will be mailed. Therefore, we are publishing the final rules essentially unchanged from the proposed rules.

#### Regulatory Procedures

##### *Executive Order 12866*

We have consulted with OMB and determined that these final rules meet the criteria for a significant regulatory action under Executive Order 12866. Therefore, we have prepared the following assessment of the potential costs and benefits of this regulatory action.

Currently, SSA employees review evidence and process applications for all aliens who are issued SSN cards. INS estimates 1.8 million work-authorized aliens enter the United States yearly. SSA processes about 2 million enumeration actions for aliens annually. In fiscal year 1996, SSA issued 1 million original SSN cards to work-authorized aliens and 774,000 replacement cards to work-authorized aliens. In addition, SSA issued 325,000 original and 40,000 replacement SSN cards to aliens without work authorization. We estimate that the current process costs SSA about 385 workyears in the field for this workload.

Having DOS and INS collect enumeration information for aliens and having INS electronically transmit that information to SSA will provide overall government savings. Aliens who currently first contact DOS (at the foreign service post), INS (at the port-of-entry), and subsequently contact SSA (at an SSA field office) for an SSN card now will be able to apply for an SSN card via their contacts with DOS and/or INS. This process will also improve the integrity of the enumeration process and reduce the potential for assigning an SSN based on a fraudulent INS document.

DOS and INS already collect, as part of the immigration process, some of the information that SSA needs to assign an SSN. This process will eliminate duplicate collection of information by SSA of the data elements already collected by DOS and/or INS for immigration purposes and provide for better overall government efficiency.

DOS and INS will collect the information needed to assign an SSN on an immigration form, adding questions to collect the information that SSA needs to assign an SSN, but which is not collected now for immigration purposes. These agencies will archive the immigration form which documents the alien's request for an SSN and retrieve it upon SSA's request.

INS will be reimbursed for the time spent collecting data not needed for immigration purposes. With the proposed changes, INS has previously estimated that its costs will be about \$6 million per year, and SSA has agreed to reimburse INS for its costs. DOS has indicated that it will not ask for reimbursement.

SSA's annual cost for original and replacement SSN cards for those aliens for whom DOS and INS will collect SSN information would be about \$12 million or 230 workyears. This leaves a net savings to SSA of about \$6 million per year if the INS estimate is accurate. The estimated savings are based on the difference between the current SSA interviewing and information collection costs and the expected INS costs for those aliens who will be subject to the processes described by the agreements among SSA, DOS, and INS.

Initially, INS and DOS will be able to collect information for SSA to enumerate about 60 percent of all lawfully admitted aliens who need SSNs. INS estimates that it will be at least several years before it will be able to collect that information for the other 40 percent. Thus, the full amount of savings will not be realized initially.

We considered outstationing SSA employees at INS offices. In some regions, SSA field offices, working with local INS offices, have implemented this arrangement as an interim measure until INS is able to electronically provide enumeration data centrally to SSA. Outstationing is not a viable alternative to these adopted procedures since it does not result in savings to SSA and since it cannot reach aliens at all ports-of-entry.

*Regulatory Flexibility Act*

We certify that these rules will not have a significant economic impact on a substantial number of small entities since they affect only individuals and

Federal agencies. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

*Paperwork Reduction Act*

SSA is imposing no additional reporting or record keeping requirements subject to OMB clearance in these final rules.

(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; 96.006 Supplemental Security Income)

**List of Subjects in 20 CFR Part 422**

Administrative practice and procedure, Organization and functions (Government agencies), Social Security.

Dated: June 22, 1998.

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

For the reasons set out in the preamble, subpart B of 20 CFR 422 is amended as follows:

**PART 422—ORGANIZATION AND PROCEDURES**

**Subpart B—[Amended]**

1. The authority citation for subpart B of part 422 continues to read as follows:

**Authority:** Secs. 205, 232, 702(a)(5), 1131, and 1143 of the Social Security Act (42 U.S.C. 405, 432, 902(a)(5), 1320b-1, and 1320b-13).

2. Section 422.103 is amended by adding paragraphs (b)(3) and (c)(3) and revising paragraph (e) to read as follows:

**§ 422.103 Social security numbers.**

\* \* \* \* \*

(b) \* \* \*

(3) *Immigration form.* SSA may enter into an agreement with the Department of State (DOS) and the Immigration and Naturalization Service (INS) to assist SSA by collecting enumeration data as part of the immigration process. Where an agreement is in effect, an alien need not complete a Form SS-5 with SSA and may request, through DOS or INS, as part of the immigration process, that SSA assign a social security number and issue a social security number card to him/her. Requests for SSNs to be assigned via this process will be made on forms provided by DOS and INS.

(c) \* \* \*

(3) *Request on immigration document.* Where an alien has requested a social security number as part of the immigration process described in paragraph (b)(3) of this section, INS will electronically transmit to SSA's central

office in Baltimore, MD, the data elements collected for immigration purposes, by both INS and DOS, that SSA needs to assign the alien a social security number along with other data elements as agreed upon by SSA and DOS or INS. The data elements received by SSA will be used to establish the age, identity, and lawful alien status or authority to work of the alien. Using this data, SSA will assign a social security number to the alien and send the social security number card to him/her at the address the alien provides to DOS or INS (or to the sponsoring agency of a refugee, if no personal mailing address is available).

\* \* \* \* \*

(e) *Replacement of social security number card.* In the case of a lost or damaged social security number card, a duplicate card bearing the same name and number may be issued. In the case of a need to change the name on the card, a corrected card bearing the same number and the new name may be issued. In both cases, a Form SS-5 must be completed. A Form SS-5 can be obtained from any Social Security office or from one of the sources noted in paragraph (b) of this section. For evidence requirements, see § 422.107.

3. Section 422.104 is amended by revising paragraph (a)(3) and the heading and text of paragraph (b) to read as follows:

**§ 422.104 To whom Social Security numbers are assigned.**

(a) \* \* \*

(3) An alien who is legally in the United States but not under authority of law permitting him or her to engage in employment, but only for a valid nonwork purpose. (See § 422.107.)

(b) *Persons without evidence of alien status.* A social security number may be assigned for a nonwork purpose to an alien who cannot provide the evidence of alien status as required by § 422.107(e), if the evidence described in that paragraph does not exist and if the alien resides either in or outside the United States and a social security number is required by law as a condition of the alien's receiving a federally-funded benefit to which the alien has established entitlement.

\* \* \* \* \*

4. Section 422.105 is revised to read as follows:

**§ 422.105 Presumption of authority of nonimmigrant alien to accept employment.**

A nonimmigrant alien shall be presumed to have permission to engage in employment if the alien presents a Form I-94 issued by the Immigration and Naturalization Service (INS) that

reflects a classification permitting work. (See 8 CFR 274a.12 for Form I-94 classifications.) A nonimmigrant alien who has not been issued a Form I-94, or whose Form I-94 does not reflect a classification permitting work, must submit a current document authorized by the INS that verifies authorization to work has been granted, e.g., an employment authorization document, to enable SSA to issue an SSN card that is valid for work purposes.

5. Section 422.106 is amended by removing paragraph (b), redesignating paragraph (c) as paragraph (b), and by revising paragraph (a) to read as follows:

**§ 422.106 Filing applications with other government agencies.**

(a) *Agreements.* In carrying out its responsibilities to assign social security numbers, SSA enters into agreements with the United States Attorney General, other Federal officials, and State and local welfare agencies. An example of these agreements is discussed in paragraph (b) of this section.

\* \* \* \* \*

6. Section 422.107 is amended by revising paragraph (a) and the seventh sentence of paragraph (e) to read as follows:

**§ 422.107 Evidence requirements.**

(a) *General.* An applicant for an original social security number card must submit documentary evidence which the Commissioner of Social Security regards as convincing evidence of age, U.S. citizenship or alien status, and true identity. An applicant for a duplicate or corrected social security number card must submit convincing documentary evidence of identity and may also be required to submit convincing documentary evidence of age and U.S. citizenship or alien status. An applicant for an original, duplicate, or corrected social security number card is also required to submit evidence to assist us in determining the existence and identity of any previously assigned number(s). A social security number will not be assigned, or an original, duplicate, or corrected card issued, unless all the evidence requirements are met. An in-person interview is required of an applicant who is age 18 or older applying for an original social security number except for an alien who requests a social security number as part of the immigration process as described in § 422.103(b)(3). An in-person interview may also be required of other applicants. All documents submitted as evidence must be originals or certified copies of the original documents and are

subject to verification with the custodians of the original records.

\* \* \* \* \*

(e) *Evidence of alien status.* \* \* \* If the applicant requests the number for a nonwork purpose and provides evidence documenting that the number is needed for a valid nonwork purpose, the number may be assigned and the card issued will be annotated with a nonwork legend. \* \* \*

\* \* \* \* \*

7. Section 422.110 is revised to read as follows:

**§ 422.110 Individual's request for change in record.**

(a) *Form SS-5.* An individual who wishes to change the name or other personal identifying information previously submitted in connection with an application for a social security number card may complete and sign a Form SS-5 except as provided in paragraph (b) of this section. The person must prove his/her identity and may be required to provide other evidence. (See § 422.107 for evidence requirements.) A Form SS-5 may be obtained from any local social security office or from one of the sources noted in § 422.103(b). The completed request for change in records may be submitted to any SSA office, or, if the individual is outside the U.S., to the Department of Veterans Affairs Regional Office, Manila, Philippines, or to any U.S. foreign service post or U.S. military post. If the request is for a change in name, a new social security number card with the new name and bearing the same number previously assigned will be issued to the person making the request.

(b) *Assisting in enumeration.* SSA may enter into an agreement with officials of the Department of State and the Immigration and Naturalization Service to assist SSA by collecting as part of the immigration process information to change the name or other personal identifying information previously submitted in connection with an application or request for a social security number card. If the request is for a change in name, a new social security number card with the new name and bearing the same number previously assigned will be issued.

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 900**

[Docket No. 95N-0192]

RIN 0910-AA24

**Quality Mammography Standards; Correcting Amendment**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** The Food and Drug Administration (FDA) is correcting its regulations governing mammography, published in a document entitled "Quality Mammography Standards" that appeared in the **Federal Register** of October 28, 1997. The regulations are effective April 28, 1999; except § 900.12(b)(8)(i), (e)(4)(iii)(B), and (e)(5)(i)(B), which become effective October 28, 2002. The October 28, 1997, document was published with some inadvertent typographical errors. Some of those errors were corrected in a document entitled "Quality Mammography Standards; Correction" that appeared in the **Federal Register** of November 10, 1997, but additional typographical errors occurred in the publication of this document. In addition, since November 10, 1997, certain other problems with the text of the regulations have been identified that, if uncorrected, would lead to unforeseen and undesirable consequences. This document corrects those errors.

**EFFECTIVE DATE:** The corrections are effective April 28, 1999, except corrections to § 900.12(b)(8)(i), (e)(4)(iii)(B), and (e)(5)(i)(B), which become effective October 28, 2002.

**FOR FURTHER INFORMATION CONTACT:** Roger L. Burkhart, Center for Devices and Radiological Health (HFZ-240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301-594-3332.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Mammography Quality Standards Act (the MQSA) (Pub. L. 102-539) was signed on October 27, 1992, to establish national quality standards for mammography. The MQSA required that, to provide mammography services legally after October 1, 1994, all facilities, except facilities of the Department of Veterans Affairs, be accredited by an approved accreditation