

PART 310—TELEMARKETING SALES RULE

■ 1. The authority citation for part 310 continues to read as follows:

Authority: 15 U.S.C. 6101–6108.

■ 2. Revise §§ 310.8(c) and (d) to read as follows:

§ 310.8 Fee for access to the National Do Not Call Registry.

* * * * *

(c) The annual fee, which must be paid by any person prior to obtaining access to the National Do Not Call Registry, is \$62 per area code of data accessed, up to a maximum of \$17,050; *provided*, however, that there shall be no charge for the first five area codes of data accessed by any person, and *provided further*, that there shall be no charge to any person engaging in or causing others to engage in outbound telephone calls to consumers and who is accessing the National Do Not Call Registry without being required under this Rule, 47 CFR 64.1200, or any other Federal law. Any person accessing the National Do Not Call Registry may not participate in any arrangement to share the cost of accessing the registry, including any arrangement with any telemarketer or service provider to divide the costs to access the registry among various clients of that telemarketer or service provider.

(d) After a person, either directly or through another person, pays the fees set forth in § 310.8(c), the person will be provided a unique account number which will allow that person to access the registry data for the selected area codes at any time for twelve months following the first day of the month in which the person paid the fee (“the annual period”). To obtain access to additional area codes of data during the first six months of the annual period, the person must first pay \$62 for each additional area code of data not initially selected. To obtain access to additional area codes of data during the second six months of the annual period, the person must first pay \$31 for each additional area code of data not initially selected. The payment of the additional fee will permit the person to access the additional area codes of data for the remainder of the annual period.

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By direction of the Commission.

Donald S. Clark,
Secretary.

Note: This appendix will not appear in the Code of Federal Regulations.

Appendix—List of Acronyms for Commenters to the TSR 2006 Fee Rule Proposal

Commenter	Acronym
1. AIMS	AIMS
2. American Teleservices Association.	ATA
3. Aplus.Net	AN
4. Barb Sachau	BAS
5. Direct Marketing Association, Inc.	DMA
6. Judy Johnson	JJ
7. National Association of Realtors.	NAR
8. National Automobile Dealers Association.	NADA
9. Nelnet	NN
10. Solberg	S
11. Summerwinds LLC	SW
12. Turnstyles Ticketing	TT

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SOCIAL SECURITY ADMINISTRATION

20 CFR Part 422

RIN 0960–AG25

Social Security Number (SSN) Cards; Limiting Replacement Cards

AGENCY: Social Security Administration (SSA).

ACTION: Final rules.

SUMMARY: The interim final rules published at 70 FR 74649, on December 16, 2005, are adopted as final with only minor changes. These regulations reflect and implement amendments to the Social Security Act (the Act) made by part of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), Public Law (Pub. L.) 108–458. Section 7213(a)(1)(A) of Pub. L. 108–458 requires that we limit individuals to three replacement SSN cards per year and ten replacement SSN cards during a lifetime. The provision permits us to allow for reasonable exceptions from these limits on a case-by-case basis in compelling circumstances. This provision also helps us to further strengthen the security and integrity of the SSN issuance process.

DATES: These regulations are effective December 16, 2005.

FOR FURTHER INFORMATION CONTACT: Karen Cool, Social Insurance Specialist, Office of Income and Security Programs, 157 RRCC, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, ((410) 966–7094, or TTY (410) 966–5609. For information on eligibility or filing for benefits, call our national toll-

free numbers, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet Web 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

Our previous regulations at 20 CFR 422.103(e), *Replacement of social security number card*, stated that:

- In the case of lost or damaged SSN card, a duplicate card bearing the same name and number may be issued, and
- 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.

Furthermore, our previous regulations at 20 CFR 422.110(a) stated that an individual who wished to change his or her name or other personal identifying information previously submitted in connection with an application for an SSN card must prove his or her identity and may be required to provide other evidence. If a completed request and all applicable evidence are received for a change in name, a new SSN card with the new name and bearing the same number previously assigned will be issued to the person making the request.

Our previous regulations did not put any numerical limits on the number of replacement SSN cards an individual may obtain. Prior to the new statutory replacement SSN card limit, the only limitation on the issuance of replacement cards that could affect the number of replacements an individual could obtain had been a protocol in our electronic records that prevented the issuance of a replacement SSN card within seven days of a previous issuance.

Section 7213(a)(1)(A) of Pub. L. 108–458 (the Intelligence Reform and Terrorism Prevention Act of 2004), enacted on December 17, 2004, requires that we restrict the issuance of multiple replacement SSN cards to any individual to three replacement SSN cards per year and ten replacement cards for the life of the individual. The statute mandates implementation of the limits not later than one year after December 17, 2004. In applying these limits, we will not consider replacement social security number cards issued prior to December 16, 2005. The provision also states that we may allow for reasonable exceptions from the limits on a case-by-case basis in compelling circumstances. In order to

comply with this provision of Pub. L. 108-458, we revised §§ 422.103 and 422.110 of our regulations.

Explanation of Changes

Section 422.103 Social Security Numbers.

In these final rules, we are making a nonsubstantive change to § 422.103(c)(1) by replacing the word “duplicate” with the word “replacement” in that section. Although the interim final rules published on December 16, 2005 did not provide for this change to § 422.103(c)(1), the effect of this change is solely to make the terminology uniform throughout the section.

We revised § 422.103(e) of our regulations by restricting the number of replacement cards an individual may obtain both during a year and over a lifetime. These limits are set at three replacement SSN cards in a year and ten per lifetime. However, as permitted by section 7213(a)(1)(A) of Pub. L. 108-458, we may allow for reasonable exceptions to these limits on a case-by-case basis in compelling circumstances. We are allowing exceptions for name changes and for changes in alien status that result in a necessary change to a restrictive legend on the SSN card, because we believe these situations satisfy the compelling circumstances test. We want to ensure the accuracy of our records and continue to encourage number holders to report name changes and changes in alien status. Consequently, every change in name or alien status, where the restrictive legend must change, presents compelling circumstances for not applying the replacement card limits. Further, because we investigate the validity of documents submitted when individuals change their name or alien status (see 20 CFR 422.107 (c) and (e)), we believe these are reasonable exceptions to the limitations in light of our compelling need for accurate records. Therefore, we will not count toward the annual and lifetime limits SSN replacement cards issued due to a change in name or restrictive legend change. We will grant an exception to the limits on a case-by-case basis if the individual provides evidence of hardship, such as a referral letter from a governmental social services agency indicating that the SSN card must be shown in order to obtain benefits or services. Finally, in an effort to streamline our definition of a replacement SSN card, we eliminated language regarding the sub-categories of duplicate and corrected SSN cards from the language heretofore incorporated in this regulation.

In these final rules, we are adding the term “legal” to the parenthetical statement that describes name changes (i.e., verified legal changes to first name and/or surname) to clarify what we consider an acceptable name change. Although this term was not included in the interim final rule, this is not a substantive change, but merely provides a more precise description of the kind of name change we intended as a basis for a replacement card. We believe this further clarification is necessary because we only accept name changes that can be verified by documentation obtained through a legal process.

Section 422.110 Individual's Request for Change in Record.

We revised § 422.110 to add cross-references to new paragraph (e)(2) in § 422.103, which describes the new limits on replacement SSN cards and the exceptions to those limits. We made a minor revision to paragraph (b) to reflect that the Immigration and Naturalization Service has been abolished and its functions and units incorporated into the Department of Homeland Security. We also made other clarifying language changes.

In these final rules, we are adding a parenthetical statement in paragraphs (a) and (b) to clarify what is considered a name change. As previously explained, these are not substantive changes, but merely provide a further description of what is considered an acceptable change in name. While the preamble to the interim final rules made it clear that name changes meant specific verified changes to a first name and/or surname, this language was inadvertently omitted from the interim final regulatory language.

We anticipate that the three-card per year limit will impact fewer than 10,000 individuals in any given year. For example, of the nearly 12.4 million replacement SSN cards we issued in 2004, the number of individuals who requested more than three replacement cards was 3,818. However, we do not have any data available for those individuals who requested replacement cards exceeding the ten-card per lifetime limit. We applied these changes prospectively beginning on December 16, 2005, and we will not consider replacement SSN cards that were issued prior to that date when applying either limit.

Comments on Interim Final Rules

On December 16, 2005, we published the interim final rules in the **Federal Register** at 70 FR 74649 and provided the public a 60-day comment period that ended on February 14, 2006. We

received comments from four individuals and one organization in response to the interim final rules. We carefully considered all the comments. We adopted the interim final rules as final with only minor clarifying changes. We believe the following summaries accurately present the views of the commenters, and we provide our reasons for not adopting the comments in our responses below.

Comment: Three individuals commented on the limits for replacement SSN cards. One agreed that limits are appropriate; another indicated that the new limits are too generous; and the last indicated that, after three cards, there should be a \$100 (“or whatever it costs”) charge to get a replacement card.

Response: We did not adopt these comments because the limits on replacement SSN cards in our rules were established by legislation that amended the Act. We believe these limits establish a fair balance between protecting the security and integrity of the SSN issuance process while not adversely affecting members of the public who may need to present an SSN card to obtain necessary benefits or services. Regarding fees for replacement cards, we had considered charging a fee in the past but determined that it was not practicable to do so.

Comment: One individual commented that SSN cards should be typed in and issued from the local Social Security office, saying that this would increase the security and integrity of the SSN card.

Response: This comment is outside the scope of the rule change which does not alter the centralized process we currently use for issuing SSN cards. Before we automated and centralized the SSN card issuance process, SSN cards were processed in the local Social Security offices. We believe a centralized process affords the greatest security and guarantees the integrity of SSN cards.

Comment: A nonpartisan organization commented that it is in support of the limits on replacement SSN cards and our proposed exceptions to the limits as indicated in the interim final rule. The organization's representative further stated that the example of a person providing a referral letter from a governmental social services agency is exactly the sort of significant hardship that SSA could anticipate a person or family to face.

Response: This comment supports our rule change and our definition of reasonable exceptions on a case-by-case basis in compelling circumstances. We want to ensure that individuals who

need services are not precluded from receiving them based on an inability to obtain a replacement SSN card.

For the reasons discussed above, we have not changed the interim final rules based on the public comments. Therefore, except for the clarifying language changes made to § 422.103 and § 422.110, the interim final rules are adopted as final without change.

Dated: May 16, 2006.

Jo Anne B. Barnhart,

Commissioner of Social Security.

■ Accordingly, the interim final rules amending 20 CFR part 422 published at 70 FR 74649 on December 16, 2005, are adopted as final with only minor clarifying language changes.

PART 422—ORGANIZATION AND PROCEDURES

Subpart B—[Amended]

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

Authority: Secs. 205, 232, 702(a)(5), 1131, 1143 of the Social Security Act (42 U.S.C. 405, 432, 902(a)(5), 1320b–1, and 1320b–13), and sec. 7213(a)(1)(A) of Pub. L. 108–458.

■ 2. Section 422.103 is amended by revising paragraph (e) to read as follows and by amending paragraph (c)(1) by removing the word “duplicate” and adding in its place the word “replacement” in the last sentence of the paragraph.

§ 422.103 Social security numbers.

* * * * *

(e) *Replacement of social security number card.* (1) *When we may issue you a replacement card.* We may issue you a replacement social security number card, subject to the limitations in paragraph (e)(2) of this section. In all cases, you must complete a Form SS–5 to receive a replacement social security number card. You may obtain a Form SS–5 from any Social Security office or from one of the sources noted in paragraph (b) of this section. For evidence requirements, see § 422.107.

(2) *Limits on the number of replacement cards.* There are limits on the number of replacement social security number cards we will issue to you. You may receive no more than three replacement social security number cards in a year and ten replacement social security number cards per lifetime. We may allow for reasonable exceptions to these limits on a case-by-case basis in compelling circumstances. We also will consider name changes (i.e., verified legal changes to the first name and/or surname) and changes in alien status

which result in a necessary change to a restrictive legend on the SSN card (see paragraph (e)(3) of this section) to be compelling circumstances, and will not include either of these changes when determining the yearly or lifetime limits. We may grant an exception if you provide evidence establishing that you would experience significant hardship if the card were not issued. An example of significant hardship includes, but is not limited to, providing SSA with a referral letter from a governmental social services agency indicating that the social security number card must be shown in order to obtain benefits or services.

(3) *Restrictive legend change defined.* Based on a person's immigration status, a restrictive legend may appear on the face of an SSN card to indicate that work is either not authorized or that work may be performed only with Department of Homeland Security (DHS) authorization. This restrictive legend appears on the card above the individual's name and SSN. Individuals without work authorization in the U.S. receive SSN cards showing the restrictive legend, “Not Valid for Employment;” and SSN cards for those individuals who have temporary work authorization in the U.S. show the restrictive legend, “Valid For Work Only With DHS Authorization.” U.S. citizens and individuals who are permanent residents receive SSN cards without a restrictive legend. For the purpose of determining a change in restrictive legend, the individual must have a change in immigration status or citizenship which results in a change to or the removal of a restrictive legend when compared to the prior SSN card data. An SSN card request based upon a change in immigration status or citizenship which does not affect the restrictive legend will count toward the yearly and lifetime limits, as in the case of Permanent Resident Aliens who attain U.S. citizenship.

■ 3. Section 422.110 is revised to read as follows:

§ 422.110 Individual's request for change in record.

(a) *Form SS–5.* If you wish to change the name or other personal identifying information you previously submitted in connection with an application for a social security number card, you must complete and sign a Form SS–5 except as provided in paragraph (b) of this section. You must prove your identity, and you may be required to provide other evidence. (See § 422.107 for evidence requirements.) You may obtain a Form SS–5 from any local Social Security office or from one of the

sources noted in § 422.103(b). You may submit a completed request for change in records to any Social Security office, or, if you are 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 your request is for a change of name on the card (i.e., verified legal changes to the first name and/or surname), we may issue you a replacement card bearing the same number and the new name. We will grant an exception from the limitations specified in § 422.103(e)(2) for replacement social security number cards representing a change in name or, if you are an alien, a change to a restrictive legend shown on the card. (See § 422.103(e)(3) for the definition of a change to a restrictive legend.)

(b) *Assisting in enumeration.* We may enter into an agreement with officials of the Department of State and the Department of Homeland Security to assist us by collecting, as part of the immigration process, information to change the name or other personal identifying information you previously submitted in connection with an application or request for a social security number card. If your request is to change a name on the card (i.e., verified legal changes to the first name and/or surname) or to correct the restrictive legend on the card to reflect a change in alien status, we may issue you a replacement card bearing the same number and the new name or legend. We will grant an exception from the limitations specified in § 422.103(e)(2) for replacement social security number cards representing a change of name or, if you are an alien, a change to a restrictive legend shown on the card. (See § 422.103(e)(3) for the definition of a change to a restrictive legend.)

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 54

[TD 9277]

RIN 1545–BE30

Employer Comparable Contributions to Health Savings Accounts Under Section 4980G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.