

SOCIAL SECURITY ADMINISTRATION**20 CFR Part 422**

[Reg. No. 22]

RIN 0960-AF05

Evidence Requirements for Assignment of Social Security Numbers (SSNs); Assignment of SSNs for Nonwork Purposes**AGENCY:** Social Security Administration (SSA).**ACTION:** Proposed rules.

SUMMARY: These proposed rules would further enhance the integrity of SSA's enumeration processes for assigning Social Security Numbers (SSNs). By changing evidence requirements for assignment of SSNs and by defining "valid nonwork reasons," we intend to reduce the opportunity for fraud through misuse and/or improper attainment of SSNs.

We propose to change our rules regarding the age at which a mandatory in-person interview is required for original applications for an SSN. In addition, we propose to eliminate the waiver of evidence of identity for children under age 7 who are applying for an original SSN card. Under these proposals, SSA will require an in-person interview with all individuals age 12 or older who are applying for an original SSN, and SSA will no longer waive the requirement to provide evidence of identity in original applications for a child under age 7. SSA will clarify that evidence of identity must contain sufficient biographical or physical information to identify the individual. Additionally, we propose to eliminate reference to a pilot no longer under consideration by SSA pertaining to the processing of replacement SSN cards for U.S. citizens.

We also propose to clarify our rules regarding when we will assign an SSN to an alien not under authority of law permitting him or her to work in the U.S. We are proposing to define a "valid nonwork purpose" as those instances when a Federal statute or regulation requires an alien to have an SSN in order to receive a federally-funded benefit to which the alien has established entitlement, or when a State or local law requires an alien who is legally in the U.S. to have an SSN in order to receive general public assistance benefits (*i.e.*, a public benefit that is means-tested) to which the alien has established entitlement.

DATES: To be sure that your comments are considered, we must receive them no later than May 27, 2003.

ADDRESSES: You may give us your comments by: using our Internet facility (*i.e.*, Social Security Online) at <http://www.socialsecurity.gov/regulations>; e-mail to regulations@ssa.gov; telefax to (410) 966-2830; or letter to the Commissioner of Social Security, PO Box 17703, Baltimore, MD 21235-7703. You may also deliver them to the Office of Regulations, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, between 8 a.m. and 4:30 p.m. on regular business days.

Comments are posted on our Internet site, or you may inspect them physically on regular business days by making arrangements with the contact person shown in this preamble.

Electronic Version: The electronic file of this document is available on the date of publication in the **Federal Register** at http://www.access.gpo.gov/su_docs/aces/aces140.html. It is also available on the Internet site for SSA (*i.e.*, Social Security Online) at <http://www.socialsecurity.gov>.

FOR FURTHER INFORMATION CONTACT: Arthur La Veck or Karen Cool, Social Insurance Specialists, Office of Income Security Programs, 3-R-1 Operations Building, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, ((410) 966-5665, arthur.laveck@ssa.gov or (410) 966-7094, karen.r.cool@ssa.gov) 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:**Current Rules—Mandatory In-Person Interview**

Our regulations at 20 CFR 422.107 on evidence requirements for SSN card applications currently state that:

- An in-person interview is required of an applicant who is age 18 or older applying for an original SSN, except for an alien who requests an SSN as part of the immigration process described in 20 CFR 422.103(b)(3).

- An in-person interview may also be required of other applicants.

- An applicant for an original SSN card is required to submit documentary evidence that 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 SSN card may also be required to submit convincing documentary evidence of age, U.S. citizenship or

alien status, but is always required to submit convincing documentary evidence of identity.

Furthermore, regarding evidence of identity, our regulations at 20 CFR 422.107(c) currently state that:

- Documentary evidence of identity may consist of a driver's license, identity card, school record, medical record, marriage record, passport, Immigration and Naturalization Service (INS) document, or other similar document serving to identify the individual. It is preferable that the document contain the applicant's signature for comparison with his or her signature on the application for a Social Security number.

- When the applicant is a child under 7 years of age applying for an original SSN card and there is no documentary evidence of identity available, the requirement for evidence of identity will be waived if there is no reason to doubt the validity of the birth record, the SSN application, and the existence of the individual.

- An applicant for a duplicate social security number card who is a U.S. citizen and who resides in an area where we are conducting a pilot project on the issuance of duplicate cards will not be required to submit a signed application or corroborative documentary evidence of identity if we are able to compare information provided by the applicant with information already in our records and, on the basis of this comparison, decide that corroborative documentary evidence is not needed to establish the applicant's identity. These special procedures do not apply to:

- A foreign-born U.S. citizen who has not already submitted evidence of citizenship to us;

- A person applying on behalf of another if the applicant is not a parent applying on behalf of his or her minor child; and

- A person whose address is an in-care-of address, a post office box, general delivery, or a suite.

Current Rules—SSNs for Nonwork Purposes

In implementing section 205(c)(2)(B)(i) of the Social Security Act (the Act) and regulations at 20 CFR 422.104 and 422.107, we currently assign SSNs to aliens who:

- Are lawfully admitted to the U.S. either for permanent residence or under other authority of law permitting them to engage in employment in the U.S.; or

- Are legally in the U.S. but not under authority of law permitting them to engage in employment, but only for a valid nonwork purpose; or

- Cannot provide evidence of alien status, and regardless of residency, are entitled to federally funded benefits for which a Federal statute or regulation requires an SSN.

Examples of these benefits include Social Security benefits, Supplemental Security Income benefits, Medicaid, and Temporary Assistance for Needy Families.

Prior to March 1, 2002, our operational instructions permitted us to assign an SSN for a nonwork purpose to aliens who:

- Cannot provide evidence of alien status and, whether or not they reside in the U.S., are entitled to federally-funded benefits for which a Federal statute or regulation requires an SSN; or
- Are legally in the U.S., if there is a Federal, State, or local statute or regulation that requires them to provide SSNs to get a particular benefit or service.

In the case of such a State or local statute or regulation, the statute or regulation must be related to the administration of taxes, general public assistance, driver licensing, or motor vehicle registration (section 205(c)(2)(C)(i) of the Act). If entitlement to a State or local benefit or service is the alien's sole reason for requesting an SSN, the alien must submit documentation from the applicable government entity. We take great care to ensure that only eligible applicants are assigned SSNs and that our records accurately reflect the basis for assignment of the SSNs. Therefore, documentation must identify the alien, describe the State or local benefit/service for which an SSN is required, and confirm that the alien meets all requirements for the benefit/service except for providing an SSN.

If we issue an SSN to an alien for a nonwork purpose, the SSN card is marked with a nonwork legend that reads "NOT VALID FOR EMPLOYMENT." If earnings are reported to us on an SSN issued for a nonwork purpose, we provide the INS with information regarding the reported earnings pursuant to section 290(c)(2) of the Immigration and Nationality Act.

In July 1996, the Internal Revenue Service (IRS) began assigning Individual Taxpayer Identification Numbers (ITINs) for tax purposes to individuals who are not eligible for SSNs but who need to report income for tax purposes. This change in IRS policy eliminated one of the primary reasons that aliens not authorized to work had sought SSNs for nonwork purposes. On October 22, 1998, we published final rules at 63 FR 56552 that eliminated the references to IRS tax reporting purposes as a valid

nonwork reason for assignment of an SSN.

After the July 1996 IRS change, the remaining valid nonwork reasons for assignment of SSNs were generally limited to eligibility for federally-funded benefits and use of the SSNs by State governments to administer statutes governing the issuing of driver's licenses, registering of motor vehicles, and in administering general public assistance programs.

On October 12, 1999, we published an Advance Notice of Proposed Rulemaking (ANPRM) at 64 FR 55217 seeking comments on a proposal to further restrict the issuance to lawfully admitted aliens of SSNs for nonwork purposes. In the ANPRM, we proposed limiting assignment of nonwork SSNs to when there is a federal statute or regulation that requires the alien to furnish an SSN to receive a federally-funded benefit or service and the alien is legally in the U.S. but not under authority of law permitting him or her to work in the U.S.

Additional restrictions on assignment of SSNs for nonwork purposes are needed because available SSA data suggest that some individuals assigned SSNs for nonwork purposes, especially for driver's licensing, misuse those SSNs to work illegally in the U.S. Wages have been reported to us on SSNs assigned for nonwork purposes. SSN misuse can impact all levels of government in the form of illegal employment in the U.S. and fraudulent entitlement to Federal and State benefits and services. We have posted on our Web site a report from SSA's Inspector General entitled "Work Activity for Social Security Numbers Assigned for Nonwork Purposes in the State of Utah." The report can be found at www.socialsecurity.gov/oig/ADOBEPDF/A-14-01-11048.pdf.

We have, with the assistance of the American Association of Motor Vehicle Administrators and the support of the U.S. Department of Transportation, combined efforts to assist States that currently require SSNs for driver licensing and motor vehicle registration purposes to develop alternative identifier systems to accommodate individuals not authorized to work in the U.S. We understand that most States, though not all, have now completed arrangements for alternative identifier systems.

Explanation of Proposed Changes

422.107 Evidence Requirements

In-Person Interview

We propose to amend § 422.107 of our regulations to require an individual age

12 or older be present at an in-person interview before assignment of an original SSN. Furthermore, we will attempt to determine if an SSN had been previously assigned by asking additional questions of the applicant and, if a previously assigned SSN cannot be located, why an SSN was not obtained at an earlier time.

We believe that this measure offers necessary additional protection against fraud while minimizing the burden on the public because:

- At age 12, a child may have picture identification, such as a student identification card, which can be used for comparison purposes, or alternatively, a child age 12 or older should have other convincing documentary evidence of identity available.

• Although the parent or another adult will be in attendance, and may be the primary respondent, we believe that requiring SSN applicants age 12 or older to be interviewed in person will significantly reduce opportunities for fraudulent applications.

- A 12-year old may be able to provide answers to some questions without parental assistance.
- This measure will have limited applicability as generally it should be rare for a person to obtain an SSN for the first time as late as 12 years of age.

We believe that the proposed age 12 threshold for in-person interviews provides a balance between allowing us to screen effectively for a prior SSN without being overly burdensome on the children or their parents. When considering the age at which to set the in-person interview, we felt that it was rare for individuals to obtain an SSN for the first time as late as 12 years of age. However, we rejected setting the threshold at a younger age because we felt that requiring the presence of younger children at in-person interviews would be overly burdensome on the children and unproductive for us, even with the parent in attendance.

Section 11111 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508) amended the Internal Revenue Code (IRC) section 32 (concerning the earned income credit). The amendment requires individuals filing tax returns after December 31, 1991 to include the taxpayer identification number—usually the SSN—of each qualifying child age 1 or older. The Uruguay Round Agreements Act (Pub. L. 103-465) amended IRC section 6109 to generally require that individuals include the taxpayer identification number of each dependent for whom an exemption is claimed, regardless of age, for taxable years beginning after December 31,

1994. Additionally, SSNs generally are required for the receipt of government aid or assistance. Children who have not been claimed on tax returns or have not received any government assistance, may have needed SSNs for medical insurance purposes, savings accounts or other financial instruments, often within a short time after birth. Because most children generally will have an SSN before their first birthday, we believe that lowering the age for a mandatory interview is in accord with our goals for fraud prevention because an explanation is needed when a child does not obtain an SSN at a very early age.

Furthermore, available SSA data suggest that some individuals assigned SSNs prior to age 18 have obtained those SSNs fraudulently because we sought no additional development and documentation before assigning an SSN. Lowering the age at which additional documentation is required should limit further occurrences of fraudulently attained SSNs for children. This form of SSN misuse can impact all levels of government in the form of illegal employment and fraudulent entitlement to government benefits and services. In addition, an SSN improperly assigned could be used to defraud creditors and other businesses.

Evidence of Identity

Evidence of identity is required for all SSN applicants, regardless of age. We propose to eliminate the provision to waive the requirement for evidence of identity for children under age 7 when an original application for an SSN is filed. Thus, an SSN will not be assigned to a child under age 7 without all the evidentiary requirements being met. Such evidence requirements also have a direct correlation with the prevention of fraud. Through convincing documentary evidence of identity, the individual's continued existence is established in our records, thus limiting opportunities for fraud, such as identity theft.

We intend to clarify that the identity document should contain sufficient biographical or physical information to identify the applicant (e.g., contain the applicant's name plus age, date of birth, or parents' names and/or a photograph or physical description). Identity documents containing biographical or physical data can be used for comparison with data SSA already has or with other documents the applicant may submit in connection with the application for an SSN card. A birth record is not sufficient evidence to establish identity. In a 2000 audit, SSA's Inspector General indicated that SSA assigned SSNs to individuals whose

U.S. birth certificates were counterfeit. Individuals typically posed as the mothers of nonexistent children and presented counterfeit birth certificates as evidence. This audit can be found at <http://www.ssa.gov/oig/ADOBEPDF/A-09-98-41009.pdf>. Requiring an identity document other than a birth certificate will make it harder for fraudulent applicants to obtain SSNs under a fictitious identity because they must obtain additional evidence. This requirement should not unduly burden legitimate applicants because sufficient proof of identity, such as a medical record or school record, will normally exist, even for the very young.

The pilot project on providing replacement SSN cards by telephone, which we were conducting on the issuance of duplicate SSN cards for U.S. citizens, has been completed. Therefore, we propose to remove the rules pertaining to this pilot.

422.104 Who Can Be Assigned a Social Security Number

We also propose to amend § 422.104 of our regulations to define what we consider to be a valid "nonwork reason" for assigning an SSN to an alien who does not have evidence of authority permitting him or her to work. This proposal defines the only valid nonwork reasons for assigning an SSN to such an alien as:

- To satisfy a Federal statute or regulation that requires the alien to have an SSN in order to receive a Federally-funded benefit (such as Temporary Assistance to Needy Families) to which the alien has established entitlement; or
- To satisfy a State or local law that requires an alien who is legally in the U.S. to have an SSN in order to receive general public assistance benefits (such as state-funded General Assistance) to which the alien has established entitlement.

Thus, under the clarification that we are proposing, State and local entities would be able to continue to require individuals to disclose their already assigned SSNs for purposes of receiving benefits or services. However, we would no longer assign an SSN to an alien for any nonwork purpose other than to receive Federal, State or local benefits as described in the proposed changes to § 422.104.

Advance Notice of Proposed Rulemaking

We received several comments in response to the ANPRM we published on October 12, 1999 (64 FR 55217) regarding SSNs for nonwork purposes. Most of the commenters expressed general support for the proposed change

in regulations contained in the ANPRM. Many of the commenters, however, did recommend revisions in the rule.

The proposed rules in this NPRM incorporate changes made in response to these comments.

Comment: Several commenters expressed concern that the rule change proposed in the ANPRM regarding SSNs for nonwork purposes could have a potential impact on access to public assistance programs.

Response: We agree with these commenters. Hence, the changes that we are now proposing maintain our policy of issuing SSNs when a State or local law requires the alien to have an SSN in order to receive general public assistance benefits to which the alien has established entitlement.

Comment: Some commenters indicated that our proposed change did not go far enough and that SSNs should only be assigned for SSA programmatic purposes.

Response: Limiting assignment of SSNs for only SSA programmatic purposes is not legally permissible. Section 205(c)(2)(B)(i)(II) of the Social Security Act requires us to assign an SSN to any individual who is an applicant for or recipient of a benefit funded in whole or in part with Federal funds.

Furthermore, there are also State laws that require individuals to have SSNs to receive benefits or services. While there is no federal mandate for us to assign SSNs for those purposes, the Social Security Act does permit the States to use the SSN in the administration of their tax, general public assistance, drivers' licenses or motor vehicle laws. In the past, we assigned SSNs for those purposes. Once the IRS began issuing ITINs, the need for SSNs for State tax purposes was eliminated as States accept ITINs in lieu of an SSN. While we could also have decided to stop assigning SSNs for general public assistance benefits, we propose to continue to assign SSNs when required for State public assistance in order to allow States to provide needed assistance to non-citizens and because experience shows that SSNs assigned for such programs have not resulted in significant SSN misuse.

Comment: Several commenters expressed concern that the elimination of drivers' licenses and motor vehicle registration as valid nonwork reasons for assigning an SSN would have a negative impact on the ability of States to track problem drivers.

Response: We recognize that our change in policy may present some challenges to State motor vehicle administrations that identify all drivers

by only the SSN, but this change was not made without consideration of those challenges. As indicated in our 1999 ANPRM related to this matter, we have encouraged States to develop an alternative identifier for several years. As stated above, we have, with the assistance of the American Association of Motor Vehicle Administrators and the support of the U.S. Department of Transportation, combined efforts to assist States that require SSNs for driver licensing and motor vehicle registration purposes in the development of alternative identifier systems to accommodate individuals not authorized to work in the U.S.

Additionally, we must do all we can to protect the integrity of the SSN processes. One aspect of our stewardship responsibilities is to ensure that our enumeration processes prevent those who have lawfully entered this country, but without work authorization, from improperly obtaining an SSN and subsequently committing fraud and misuse. We always try to strike an appropriate balance between minimizing public burden and protecting the public interest, and in this instance we believe that balance is best achieved by eliminating drivers' licensing as a valid nonwork reason for the assignment of SSNs for nonwork purposes.

Clarity of These Regulations

Executive Order 12866 requires 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 these proposed 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 is unclear?
- 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, as Amended by Executive Order 13258

The Office of Management and Budget (OMB) has reviewed these rules in accordance with Executive Order 12866 as amended. We have also determined that these rules meet the plain language requirement of Executive Order 12866.

Regulatory Flexibility Act

We certify that these proposed rules would not have a significant economic impact on a substantial number of small entities because they would affect only individuals. Thus, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Federalism

We have reviewed these proposed regulations under the threshold criteria of Executive Order 13132 and have determined that they would not have substantial direct effects 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. As noted above, we propose to continue assigning SSNs for State-related purposes when we believe it does not conflict with our stewardship responsibilities. The impact is limited to those States that have not developed an alternative system for identifying individuals not eligible for SSNs and who are seeking drivers' licenses.

Paperwork Reduction Act

These proposed rules contain reporting requirements in section 422.107. We have been collecting this information under Office of Management and Budget (OMB) Number 0960-0066, using form SS-5, Application for SSN Card and from State Bureaus of Vital Statistics (BVS) through the enumeration at birth process. However, the changed reporting requirements in section 422.107, described above, and the revised form will require clearance from OMB under the Paperwork Reduction Act of 1995. Below is the estimated public reporting burden:

	Form SS-5	State BVSs
Number of Respondents	14,000,000	
Frequency of Response: (daily/weekly/monthly)	1	53. Varies.
Average Burden Per Respondent/Cost Per Response	8.5–9.5 minutes	\$1.94 per record for 4,096,000 records.
Estimated Annual Burden	1,987,533 hours	\$7,951,080.

An Information Collection Request is being submitted to OMB for clearance. We are soliciting comments on the burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. Comments may be mailed or faxed to OMB and SSA at the following addresses/fax numbers:

Office of Management and Budget, Attn: OMB Desk Officer, Rm. 10235, New Executive Office Building, 725 17th St., NW., Washington, DC 20503, Fax No. 202-395-6974.

Social Security Administration, Attn: SSA Reports Clearance Officer, 1338 Annex Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, Fax No. 410-965-6400.

Comments can be received between 30 and 60 days after publication of this notice and will be most useful if received by SSA within 30 days of publication. You can obtain a copy of the collection instrument by calling the SSA Reports Clearance Officer at 410-965-0454.

(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; and 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 422

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

Dated: March 17, 2003.

Jo Anne B. Barnhart,
Commissioner of Social Security.

For the reasons set out in the preamble, we propose to amend part 422, subpart B, chapter III of title 20, Code of Federal Regulations 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. Revise § 422.104 to read as follows:

§ 422.104 Who can be assigned a social security number.

(a) *Persons eligible for SSN assignment.* We can assign you a social security number if you meet the evidence requirements in § 422.107 and you are:

(1) A United States citizen; or
 (2) An alien lawfully admitted to the United States for permanent residence or under other authority of law permitting you to work in the United States (§ 422.105 describes how we determine if a nonimmigrant alien is permitted to work in the United States); or

(3) An alien who cannot provide the evidence of alien status showing the alien has been lawfully admitted to the U.S., or an alien who has evidence of having been lawfully admitted but who does not have evidence of authority to work in the U.S., as required by § 422.107(e), if the evidence described in that paragraph does not exist, but only for a valid nonwork reason. We consider a valid nonwork reason to be:

(i) You need a social security number to satisfy a Federal statute or regulation that requires you to have a social security number in order to receive a Federally-funded benefit to which you have established entitlement and you reside either in or outside the U. S.; or

(ii) You need a social security number to satisfy a state or local law that requires you to have a social security number in order to receive general public assistance benefits to which you have established entitlement, and you are legally in the United States.

(b) *Annotation for a nonwork purpose.* If we assign you a social security number as an alien for a nonwork purpose, we will indicate in our records that you are not authorized to work. We will also mark your social security card with a legend that reads "NOT VALID FOR EMPLOYMENT." If earnings are reported to us on your number, we will inform the Immigration and Naturalization Service of the reported earnings.

3. Amend § 422.107, to revise paragraphs (a) and (c), 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 12 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 copies of the original documents certified by the custodians of the original records and are subject to verification.

* * * * *

(c) *Evidence of identity.* An applicant for an original social security number or a duplicate or corrected social security number card is required to submit convincing documentary evidence of identity. Documentary evidence of identity may consist of a driver's license, identity card, school record, medical record, marriage record, passport, Immigration and Naturalization Service document, or other similar document serving to identify the individual. The document must contain sufficient information to identify the applicant, including the applicant's name and the applicant's age, date of birth, or parents' names; and/or a photograph or physical description of the individual. A birth record is not sufficient evidence to establish identity for these purposes.

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[FR Doc. 03-7188 Filed 3-25-03; 8:45 am]

BILLING CODE 4191-02-P

DEPARTMENT OF VETERANS AFFAIRS**38 CFR Part 3****RIN 2900-AL55****Disease Associated With Exposure to Certain Herbicide Agents: Chronic Lymphocytic Leukemia**

AGENCY: Department of Veterans Affairs.
ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its adjudication regulations concerning presumptive service connection for certain diseases for which there is no record during service. This proposed amendment is necessary to implement a decision of the Secretary of Veterans Affairs that there is a positive association between exposure to herbicides used in the Republic of Vietnam during the Vietnam era and the subsequent development of chronic lymphocytic leukemia. The intended effect of this proposed amendment is to establish presumptive service connection for that condition based on herbicide exposure.

DATES: Comments must be received on or before May 27, 2003.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273-9289; or e-mail comments to "OGCRegulations@mail.va.gov". Comments should indicate that they are submitted in response to "RIN 2900-AL55." All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: David Barrans, Staff Attorney (022), Office of General Counsel, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273-6332.

SUPPLEMENTARY INFORMATION: Section 3 of the Agent Orange Act of 1991, Pub. L. 102-4, 105 Stat. 11, directed the Secretary to seek to enter into an agreement with the National Academy of Sciences (NAS) to review and summarize the scientific evidence concerning the association between exposure to herbicides used in support of military operations in the Republic of Vietnam during the Vietnam era and each disease suspected to be associated with such exposure. Congress mandated