

comments filed in response to this notice, the rule changes will be promulgated in accordance with the APA (see 5 U.S.C. § 553), and will be codified in 19 CFR part 210.

Dated: January 11, 1995.

By Order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95-1332 Filed 1-18-95; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Social Security Administration

#### 20 CFR Parts 404 and 422

RIN 0960-AD74

#### Statement of Earnings and Benefit Estimates

**AGENCY:** Social Security Administration, HHS.

**ACTION:** Proposed rules.

**SUMMARY:** We are proposing to revise our rules on sending statements of earnings and benefit information to individuals. Under our current rules, which implement section 1143(a) of the Social Security Act (the Act), we are required to send a statement to an eligible individual who requests it. Under these proposed rules, we will provide the statement without a request to an eligible individual, as required by section 1143(c) of the Act.

**DATES:** Your comments will be considered if we receive them no later than March 20, 1995.

**ADDRESSES:** Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, MD 21235, sent by telefax to (410) 966-0869, or delivered to the Office of Regulations, Social Security Administration, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

The electronic file of this document is available on the Federal Bulletin Board (FBB) at 9 a.m. on the date of publication in the Federal Register. To download the file, modem dial (202) 512-1387. The FBB instructions will explain how to download the file and the fee. This file is in Wordperfect and

will remain on the FBB during the comment period.

**FOR FURTHER INFORMATION CONTACT:** Jack Schanberger, Legal Assistant, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-8471.

**SUPPLEMENTARY INFORMATION:** Section 1143 of the Act requires the Secretary of Health and Human Services (the Secretary) to provide to eligible individuals "a social security account statement" (statement). We must fulfill this requirement in three phases. In the first phase, we were required, by October 1, 1990, to provide, upon the request of an "eligible individual," a statement that contains certain information described below. Section 1143 defines an "eligible individual" as one who has a social security account number, has attained age 25 or over, and has wages or net earnings from self-employment.

The statement we provide under section 1143 of the Act must contain the following information as of the date of the request:

1. The amount of wages paid to and self-employment income derived by the individual;
2. An estimate of the aggregate of the employee and self-employment contributions of the individual for old-age, survivors', and disability insurance benefits;
3. A separate estimate of the aggregate of the employee and self-employment contributions of the individual for medicare hospital insurance coverage; and
4. An estimate of the potential monthly retirement (old-age), disability, dependents', and survivors' insurance benefits payable on the individual's earnings record and a description of medicare hospital insurance coverage.

We are carrying out this first phase, which is required by section 1143(a) of the Act and which we explained in the final rules published November 23, 1992, in the Federal Register (57 FR 54917). In these proposed rules, we explain how we will fulfill our obligations in the second and third phases of section 1143.

The second phase of providing statements, as stated in section 1143(c)(1) of the Act, requires that by not later than September 30, 1995, we must furnish this statement to each "eligible individual" who has attained age 60 by October 1, 1994 (i.e., by the beginning of fiscal year 1995), is not receiving benefits under title II of the Act, and for whom we can determine a current mailing address by methods we consider appropriate. We must also

send this statement to each "eligible individual" who attains age 60 in fiscal years 1995 through 1999, i.e., October 1, 1994 through September 30, 1999, if the individual is not receiving benefits under title II of the Act, and if we can determine a current mailing address by methods we consider appropriate. In the case of an individual who attains age 60 in fiscal years 1995 through 1999, we will mail a statement to the individual in the fiscal year in which he or she attains age 60. We will mail the statement without requiring a request from the individual. We will also advise individuals receiving these statements that the information in our records will be updated annually and is available upon request.

The third phase of providing statements, as stated in section 1143(c)(2) of the Act, requires that beginning not later than October 1, 1999, we must provide this statement on an annual basis to each "eligible individual" who is not receiving benefits under title II and for whom we can determine a current mailing address by methods we consider appropriate. We must provide a statement without a request from the individual and, unlike the second phase, regardless of whether the eligible individual has attained age 60.

To implement the second phase of section 1143, we will use our records of assigned social security account numbers to identify eligible individuals who will attain age 60 by the appropriate times and who are not receiving benefits under title II of the Act. We have decided that the appropriate method now for determining an individual's current mailing address is to obtain it from the individual taxpayer files of the Internal Revenue Service (IRS). The IRS is authorized by section 6103(m)(7) of the Internal Revenue Code (26 U.S.C. 6103(m)(7)), as added by section 5111 of Public Law 101-508 (the Omnibus Budget Reconciliation Act of 1990), to disclose this information to us for our use in mailing the statements required by section 1143 of the Act. This source of address information is readily available to us, i.e., electronically accessible, using social security numbers as identifiers, and was clearly contemplated by Congress in the enactment of section 6103(m)(7) of the Internal Revenue Code.

Because individuals who live in Puerto Rico, the Virgin Islands, and Guam generally are not required to pay Federal income taxes, the IRS does not have their addresses. We have arranged to use the addresses from their local

taxpayer records, which the tax agencies in these three entities will provide to us.

In these proposed regulations, we state the circumstances under which we will not send an unrequested statement. Those circumstances, stated in proposed § 404.812(b), are based on our judgment that sending, or attempting to send, a statement to specified categories of individuals would not reasonably be required under section 1143 of the Act.

We will mail the statements throughout the fiscal year, rather than in one mass mailing. This is an administratively effective and cost-efficient method of handling the more than 6 million statements we will mail in fiscal year 1995 and the nearly 2 million we expect to mail in each fiscal year 1996 through 1999. The statements we send to eligible individuals who attain age 60 during fiscal years 1995 through 1999 or attain age 60 by the start of fiscal year 1995 will be mailed throughout the fiscal year so that individuals will receive statements in the fiscal year in which they qualify to receive one, as required by section 1143.

To implement the third phase of section 1143, i.e., sending an annual statement to eligible individuals who are not receiving benefits under title II of the Act, we will follow essentially the same procedures as those for the second phase of sending statements to eligible individuals age 60 or older, except that we will send statements to all eligible individuals, i.e., those age 25 and older.

In the final rules we published on November 23, 1992 (57 FR 54917), we revised § 404.810 to describe an individual's right to obtain a statement of earnings and benefit estimate, how to request it, and the information we need to comply with the request. In a new § 404.811, we listed the information that we will furnish in the statement of earnings and benefit estimate. Further, we revised § 422.125 so that most of the rules on statements of earnings and benefit estimates are now located in Subpart I of Part 404.

In these proposed regulations, we are revising § 404.811 for consistency with the new § 404.812, which explains the statement we will send without a request, as required by section 1143(c) of the Act. We will also indicate whether the individual has the required credits (quarters of coverage) to be eligible for each type of benefit, and the ages at which various retirement amounts are potentially payable.

When individuals request statements, they are asked for information about when they expect to retire, i.e., stop working, how much they earned last year, and how much they expect to earn this year and in future years up to

retirement. In § 404.811, we explain that if the individual does not already have the required credits (quarters of coverage) to be eligible to receive benefits, we may include up to eight additional estimated credits (four per year maximum) based on the requester's information about earnings for last year and this year that are not yet on our records. In addition, we state that the benefit estimate will be based partly on the information the requester provided about his or her planned retirement age and current and future earnings.

For the unrequested statements, we will not have information from the individual. Instead, we will estimate the individual's recent and future earnings based on his or her current social security record. In § 404.812, we explain that if there are earnings recorded in either of the two years before the year in which the individual is selected to get a statement, we will use the same earnings amount as that recorded in the later of these two years to project earnings for the current year and future years when we estimate the benefits. In addition, if the individual does not already have the required credits (quarters of coverage) to be eligible to receive benefits, we will use that last recorded earnings amount to estimate up to eight additional credits (four per year) for the last year and the current year. If there are no earnings recorded in either of the 2 years preceding the year of selection, we will not estimate any current and future earnings or additional credits (quarters of coverage) for the individual.

In summary, both §§ 404.811 and 404.812 list the information that we will include in the revised statement format. In addition, § 404.812 explains who will be sent an unrequested statement, who will not be sent an unrequested statement, and the selection and mailing process we will use. We are also proposing to amend § 422.125 to conform it to the changes we have described for subpart I of part 404.

#### Regulatory Procedures

##### *Executive Order 12866*

The Office of Management and Budget has reviewed these rules and determined that they do not meet the criteria for a significant regulatory action under E.O. 12866.

##### *Regulatory Flexibility Act*

We certify that these proposed regulations will not have a significant economic impact on a substantial number of small entities since these regulations affect only individuals. Therefore, a regulatory flexibility

analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

##### *Paperwork Reduction Act*

These proposed regulations impose no additional reporting and recordkeeping requirements subject to Office of Management and Budget clearance.

(Catalog of Federal Domestic Assistance Program Nos. 93.802 Social Security-Disability Insurance; 93.803 Social Security-Retirement Insurance; 93.805 Social Security-Survivors Insurance; 93.773 Medicare-Hospital Insurance)

#### List of Subjects

##### *20 CFR Part 404*

Administrative practice and procedure; Blind; Disability benefits; Old-Age, Survivors, and Disability Insurance; Reporting and recordkeeping requirements; Social Security.

##### *20 CFR Part 422*

Administrative practice and procedure; Freedom of information; Organization and functions (Government agencies); Social Security.

Dated: June 28, 1994.

Shirley Chater,

*Commissioner of Social Security.*

Approved: August 31, 1994.

Donna E. Shalala,

*Secretary of Health and Human Services.*

For the reasons set out in the preamble, we propose to amend Subpart I of Part 404 of 20 CFR Chapter III and Subpart B of Part 422 of 20 CFR Chapter III as follows:

#### **PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950— )**

1. The authority citation for Subpart I of Part 404 continues to read as follows:

Authority: Secs. 205(a), (c)(1), (c)(2)(A), (c)(4), (c)(5), (c)(6), and (p), 1102 and 1143 of the Social Security Act; 42 U.S.C. 405(a), (c)(1), (c)(2)(A), (c)(4), (c)(5), (c)(6), and (p), 1302, and 1320b-13.

2. Section 404.811 is revised to read as follows:

##### **§ 404.811 The statement of earnings and benefit estimates you requested.**

(a) *General.* After receiving a request for a statement of earnings and the information we need to comply with the request, we will provide you or your authorized representative a statement of the earnings we have credited to your record at the time of your request. With the statement of earnings, we will include estimates of the benefits

potentially payable on your record, unless you do not have the required credits (quarters of coverage) for any kind of benefit(s). (However, see paragraph (b)(3) of this section regarding the possibility of our estimating up to eight additional credits on your record.) If we do not provide a statement of earnings and an estimate of all the benefits potentially payable, or any other information you requested, we will explain why.

(b) *Contents of statement of earnings and benefit estimate.* The statement of your earnings and benefit estimates will contain the following information:

(1) Your social security taxed earnings as shown by our records as of the date of your request;

(2) An estimate of the social security and medicare hospital insurance taxes paid on your earnings (although we do not maintain tax information);

(3) The number of credits, i.e., quarters of coverage, not exceeding 40, you have for both social security and medicare hospital insurance purposes, and the number you need to be eligible for social security and also for medicare hospital insurance coverage. If you do not already have the required credits (quarters of coverage) to be eligible to receive social security benefits and medicare hospital insurance coverage, we may include up to eight additional estimated credits (four per year) based on the earnings you told us you had for last year and this year that we have not yet entered on your record;

(4) A statement as to whether you meet the credits (quarters of coverage) requirements, as described in subpart B of this part, for each type of social security benefit when we prepare the benefit estimates, and also whether you are eligible for medicare hospital insurance coverage;

(5) Estimates of the monthly retirement (old-age), disability, dependents' and survivors' insurance benefits potentially payable on your record if you meet the credits (quarters of coverage) requirements. The benefit estimates we send you will be based partly on your stated earnings for last year (if not yet on your record), your estimate of your earnings for the current year and for future years before you plan to retire, and on the age at which you plan to retire. The estimate will include the retirement (old-age) insurance benefits you could receive at age 62 (or your current age if you are already over age 62), at full retirement age (currently age 65 to 67, depending on your year of birth) or at your current age if you are already over full retirement age, and at age 70;

(6) A description of the coverage under the medicare program;

(7) A reminder of your right to request a correction of your earnings record; and

(8) A remark that an annually updated statement is available on request.

3. Section 404.812 is added to read as follows:

**§ 404.812 Statement of earnings and benefit estimates sent without request.**

(a) *Who will be sent a statement.*

Unless one of the conditions in paragraph (b) of this section applies to you, we will send you, without request, a statement of earnings and benefit estimates if:

(1) You have a social security account number;

(2) You have wages or net earnings from self-employment on your social security record;

(3) You have attained age 60 or older by October 1, 1994; you attain age 60 after October 1, 1994, but before October 1, 1999; or, beginning October 1, 1999, you have attained age 25 or older;

(4) We can determine your current mailing address.

(b) *Who will not be sent a statement.*

We will not send you an unrequested statement if any of the following conditions apply:

(1) You do not meet one or more of the conditions of paragraph (a) of this section;

(2) Our records contain a notation of your death;

(3) You are entitled to benefits under title II of the Act;

(4) We have already sent you a statement, based on your request, in the fiscal year we selected you to receive an unrequested statement;

(5) We cannot obtain your address (see paragraph (c)(2) of this section); or

(6) We are correcting your social security earnings record when we select you to receive a statement of earnings and benefit estimates.

(c) *The selection and mailing process.* Subject to the provisions of paragraphs (a) and (b) of this section, we will use the following process for sending statements without requests:

(1) *Selection.* We will use our records of assigned social security account numbers to identify individuals to whom we will send statements.

(2) *Addresses.* If you are living in one of the 50 States, our current procedure is to get your address from individual taxpayer files of the Internal Revenue Service, as authorized by section 6103(m)(7) of the Internal Revenue Code (26 U.S.C. 6103(m)(7)). If you live in Puerto Rico, the Virgin Islands, or Guam, we will get your address from the taxpayer records of the Territory in which you live.

(3) *Age.* If you have attained age 60 by October 1, 1994, we will send you a statement on or before September 30, 1995. If you attain age 60 after October 1, 1994 but before October 1, 1999, we will send you a statement in the fiscal year, i.e., October 1 through September 30, in which you attain age 60. In either case, we will inform you that an annually updated statement is available on request. Beginning October 1, 1999, we will send you a statement each year in which you are age 25 or older.

(4) *Ineligible.* If we do not send you a statement because one or more conditions in paragraph (b) of this section apply when you are selected, we will send a statement in the first appropriate fiscal year thereafter in which you do qualify.

(5) *Undeliverable.* If the statement we send you is returned by the Post Office as undeliverable, we will not remail it.

(d) *Contents of statement of earnings and benefit estimates.* To prepare your statement and estimate your benefits, we will use the earnings on our records. If there are earnings recorded for you in either of the 2 years before the year in which you are selected to get a statement, we will use the later of these earnings as your earnings for the current year and future years when we estimate your benefits. In addition, if you do not already have the required credits (quarters of coverage) to be eligible to receive benefits, we will use that last recorded earnings amount to estimate up to eight additional credits (four per year) for last year and the current year if they are not yet entered on your record. If there are no earnings entered on your record in either of the two years preceding the year of selection, we will not estimate current and future earnings or additional credits for you. Your earnings and benefit estimate statement will contain the following information:

(1) Your social security taxed earnings as shown by our records as of the date we select you to receive a statement;

(2) An estimate of the social security and medicare hospital insurance taxes paid on your earnings (although we do not maintain tax information);

(3) The number of credits, i.e., quarters of coverage, not exceeding 40 (as described in paragraph (d) of this section), that you have for both social security and medicare hospital insurance purposes, and the number you need to be eligible for social security benefits and also for medicare hospital insurance coverage;

(4) A statement as to whether you meet the credit (quarters of coverage) requirements, as described in subpart B of this part, for each type of social security benefit when we prepare the

benefit estimates, and also whether you are eligible for medicare hospital insurance coverage;

(5) Estimates of the monthly retirement (old-age), disability, dependents' and survivors' insurance benefits potentially payable on your record if you meet the credits (quarters of coverage) requirements. If you are age 50 or older, the estimates will include the retirement (old-age) insurance benefits you could receive at age 62 (or your current age if you are already over age 62), at full retirement age (currently age 65 to 67, depending on your year of birth) or at your current age if you are already over full retirement age, and at age 70. If you are under age 50, instead of estimates, we may provide a general description of the benefits (including auxiliary benefits) that are available upon retirement.

(6) A description of the coverage provided under the medicare program;

(7) A reminder of your right to request a correction of your earnings record; and

(8) A remark that an annually updated statement is available on request.

#### **PART 422—ORGANIZATION AND PROCEDURES**

1. The authority citation for Subpart B of Part 422 continues to read as follows:

Authority: Secs. 205, 1102, and 1143 of the Social Security Act; 42 U.S.C. 405, 1302, and 1320b-13.

2. Section 422.125 is amended by revising paragraphs (a) and (b) to read as follows:

##### **§ 422.125 Statement of earnings; resolving earnings discrepancies.**

(a) *Obtaining a statement of earnings and estimated benefits.* An individual may obtain a statement of the earnings on his earnings record and an estimate of social security benefits potentially payable on his record either by writing, calling, or visiting any social security office, or by waiting until we send him one under the procedure described in § 404.812. An individual may request this statement by completing the proper form or by otherwise providing the information the Social Security Administration requires, as explained in § 404.810(b).

(b) *Statement of earnings and estimated benefits.* Upon receipt of such a request or as required by section 1143(c) of the Social Security Act, the Social Security Administration will provide the individual, without charge, a statement of earnings and benefit estimate or an earnings statement. See

§§ 404.810ff concerning the information contained in these statements.

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[FR Doc. 95-1309 Filed 1-18-95; 8:45 am]

BILLING CODE 4190-29-P

#### **DEPARTMENT OF THE INTERIOR**

##### **Office of Surface Mining Reclamation and Enforcement**

##### **30 CFR Part 934**

##### **North Dakota Regulatory Program**

**ACTION:** Proposed rule; reopening and extension of public comment period on proposed amendment.

**SUMMARY:** OSM is announcing receipt of revisions and additional explanatory information pertaining to a previously proposed amendment to the North Dakota regulatory program (hereinafter, the "North Dakota program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions and additional explanatory information pertain to North Dakota's "Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments." The amendment is intended to revise this document to be consistent with the Federal regulations and to improve operational efficiency.

**DATES:** Written comments must be received by 4:00 p.m., m.s.t., February 3, 1995.

**ADDRESSES:** Written comments should be mailed or hand delivered to Guy Padgett at the address listed below.

Copies of the North Dakota program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Casper Field Office.

Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, Room 2128, Casper, WY 82601-1918, Telephone: (307) 261-5776.

Edward J. Englerth, Director, Reclamation Division, North Dakota Public Service Commission, Capitol Building, Bismarck, ND 58505-0165, Telephone: (701) 224-4092.

**FOR FURTHER INFORMATION CONTACT:** Guy Padgett, Telephone: (307) 261-5776.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background on the North Dakota Program**

On December 15, 1980, the Secretary of the Interior conditionally approved the North Dakota program. General background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the North Dakota program can be found in the December 15, 1980, Federal Register (45 FR 82214). Subsequent actions concerning North Dakota's program and program amendments can be found at 30 CFR 934.12, 934.13, 934.15, 934.16, and 934.30.

##### **II. Proposed Amendment**

By letter dated February 17, 1994, North Dakota submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. ND-U-01). North Dakota submitted the proposed revisions to its "Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments" (hereinafter, the "revegetation success document") in response to required program amendments at 30 CFR 934.16 (b) through (i), (w), and (x), and at its own initiative.

OSM announced receipt of the proposed amendment in the March 14, 1994, Federal Register (49 FR 11744), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. ND-U-05). Because no one requested a public hearing or meeting, none was held. The public comment period ended on April 13, 1994.

During its review of the amendment, OSM identified concerns relating to (1) Revegetation success standards for recreation, residential, or industrial and commercial postmining land uses; (2) revegetation success standards for prime farmlands; (3) use of sampling procedures not included in an approved State program; (4) revegetation success standards for tame pastureland; (5) consultation with the appropriate State agencies for stocking and planting arrangements for woodland and shelterbelt postmining land uses; (6) revegetation success standards for non-replacement shelterbelt postmining land use; (7) designation of fish and wildlife habitat and the premining assessment for fish and wildlife habitat; (8) revegetation success standards for wetlands and annual grain crops used for fish and wildlife habitat; (9) the establishment of a maximum sample