

from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for Instrument Flight Rules (IFR) operations to the airport. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before January 30, 1997.

ADDRESSES: Send comments on the proposed rule in triplicate to: Manager, Operations Branch, AEA-530, Docket No. 96-AEA-15, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430. The official docket may be examined in the Office of the Assistant Chief Counsel, AEA-7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Operations Branch, AEA-530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT:

Mr. Francis T. Jordan, Jr., Airspace Specialist, Operations Branch, AEA-530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553-4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or argument as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 96-AEA-15". The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All

comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA-7, FAA Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace extending upward from 700 feet above the surface (AGL) at Stuart, VA. A GPS RWY 26 SIAP has been developed for Micro Airport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for IFR operations at the airport. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace extending upward from 700 feet above the surface are published in Paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small

entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 14 CFR 11.69.

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, is proposed to be amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA VA E5 Stuart, VA [New]

Micro Airport, VA

(lat. 36° 44'07"N, long. 80° 26'56"W)

That airspace extending upward from 700 feet above the surface within a 8-mile radius of Micro Airport and within 4.5 miles each side of the 252° bearing to the airport from the 8-mile radius to 15 miles northeast of the airport.

* * * * *

Issued in Jamaica, New York, on December 18, 1996.

James K. Buckles,

Acting Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97-79 Filed 1-2-97; 8:45 am]

BILLING CODE 4910-13-M

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Regulation No. 4]

RIN 0960-AE44

Federal Old-Age, Survivors and Disability Insurance; Report of Earnings Under the Social Security Earnings Test

AGENCY: Social Security Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend our regulations regarding reports of earnings to the Social Security Administration (SSA) required of beneficiaries who work and earn more

than the applicable exempt amount. Beneficiaries under age 70, who work and earn more than the applicable exempt amount, are required by law to report their earnings to SSA within three months and 15 days following the close of their tax year (usually April 15). As a result of our ongoing efforts both to improve customer service and to reduce the public's paperwork burden, we propose to change our regulations to state that we can accept the W-2 report filed by the employer with SSA, and/or the self-employment income tax return filed by the beneficiary with the Internal Revenue Service (IRS), as the report of earnings. We will use the information (wages and net earnings from self-employment) contained in those reports together with other pertinent information to adjust benefits under the earnings test.

DATES: To be sure that your comments are considered, we must receive them no later than February 3, 1997.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, MD 21235, sent by telefax to (410) 966-2830, sent by E-mail to "regulations@ssa.gov," or delivered to the Division of Regulations and Rulings, 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 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 9:00 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 format and will remain on the FBB during the comment period.

FOR FURTHER INFORMATION CONTACT: Robert Augustine, Division of Regulations and Rulings, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (410) 966-5121. For information on eligibility, claiming benefits, or coverage of earnings, call our national toll-free number, 1-800-772-1213.

SUPPLEMENTARY INFORMATION: Under the Social Security earnings test set out in section 203 of the Social Security Act (the Act), benefits are reduced if the annual earnings of a beneficiary (receiving other than disability benefits), under age 70, exceed certain exempt amounts. The exempt amounts are established by law. Individuals who are

entitled to a monthly benefit (other than a disability benefit) during the year and who earn over the exempt amount are required to file a report of earnings with the SSA within three months and 15 days following the close of their tax year (usually April 15). The reports may be filed on a form prescribed by SSA, or in person, or by telephone. The report may be filed by someone other than the beneficiary, provided the report contains the required information. Failure to file a report as required will result in a monetary penalty, unless we find that there was good cause for filing late. There are 330,833 public reporting burden hours associated with the completion and filing of these annual earnings reports.

Working beneficiaries are also required to report their income to the IRS during the same time period. SSA receives and processes W-2 information from employers. We also receive limited information from IRS from individual self-employment income tax returns that are filed. Wages and net-earnings from self-employment are "posted" to individual earnings records as part of our mission to maintain accurate earnings records for benefit payment. Until recently, we have been unable to use the earnings information we receive from W-2 forms and self-employment tax returns as the annual report because it took several years for SSA to receive and process the earnings information from the W-2 forms and the tax returns. For that reason, we provided in § 404.452(b) of our regulations that the filing of tax returns with the IRS was not such a report as is required to be filed for the annual earnings test, even where the tax returns showed the same wages and net earnings from self-employment that must be reported to us for purposes of the annual earnings test. Although SSA was unable to use earnings information from W-2 forms and self-employment tax returns to adjust benefits on a timely basis, we have traditionally used this information as a check to ensure beneficiary compliance with the reporting requirements of the annual earnings test.

Recent improvements in employer reporting practices and in SSA's Annual Wage Reporting (AWR) process have made it feasible and desirable for SSA to change its process for obtaining earnings information from working beneficiaries. For the majority of beneficiaries, information from the W-2 report and/or the self-employment tax return is now processed quickly enough that it is sufficient to serve as the "annual report" without need for further action by the beneficiary. Therefore, as part of the "reinventing

government" initiative and in order to reduce the reporting burden on the public, improve customer service and save administrative costs, we propose to revise § 404.452 to state that the form W-2 filed by the employer with SSA and/or the self-employment income tax return filed by beneficiaries with IRS may serve as the annual report of earnings. Because of this change, SSA will no longer print and mail Annual Report of Earnings forms. For most beneficiaries, the process will be totally automated, with SSA receiving and processing earnings information reported for tax purposes and using that information in conjunction with other relevant information to adjust the Social Security benefits payable accordingly.

Certain situations will require more information than is contained on the form W-2 and self-employment income tax return. When these situations occur, a beneficiary will still have to contact SSA to provide the information in order to ensure the correct amount of benefits are paid, unless the information was otherwise provided to us. In addition, some beneficiaries may wish to file a report directly with SSA, in order to have their benefits adjusted sooner. (Most adjustments now occur during the period February through May, based on reports filed directly with us, but would take place June through October if based on reports filed through IRS.) In these instances, we will accept a report of earnings in writing, in person, or over the telephone, from beneficiaries who still need or wish to file a report.

For example, under IRS regulations, wages are reported on forms W-2 for the year in which they are paid. Under the Social Security earnings test, wages are counted for the year in which services are performed. Therefore, if the form W-2 shows wages that were earned in a year or years prior to the year for which the report is made, e.g., deferred compensation, the beneficiary will need to report to us the correct amount of earnings for the year reported.

There is a similar provision for the self-employed (applicable to years after the initial year of entitlement) that may require contact when no services have been performed in the year for which net earnings from self-employment are reported. Furthermore, in the year in which the monthly earnings test applies (frequently the year of retirement), a beneficiary who has not already done so will need to provide monthly earnings information to SSA that cannot be discerned from the form W-2 or the self-employment income tax return.

Additional examples of situations where other pertinent information must be provided are:

- The beneficiary earned wages above the exempt amount and also had a net loss from self-employment;

- There were wages reported on a W-2 that will be included on a self-employment tax return (e.g., ministers and certain church workers);

- The beneficiary is self-employed and reports earnings on a fiscal year basis which is not the calendar year;

- The beneficiary had Federal agricultural program payments or income from carry-over crops that is included on the SE return;

- The beneficiary estimated earnings over the exempt amount and some benefits were withheld, but there were no earnings for the year, i.e., no wages reported, no self-employment.

SSA already has methods of collecting some of the supplemental information needed to correctly adjust benefits under the earnings test when that information is needed. Much of the information can be gathered in the initial claims process. We also work with employers and payroll groups to have them report directly to us certain payments that should not be counted under the earnings test. We will continue to use these methods as well as develop other means to obtain supplemental information needed to correctly adjust benefits without a separate report of earnings from the beneficiary. We will provide an explanation of the process during the claims interview, and we will provide written information through our public information materials that will allow beneficiaries to understand what earnings should be counted under the earnings test and the situations in which we would need additional information. When we adjust benefits based on the earnings posted to the beneficiary's record, we will, in our notice to the beneficiary, provide full information regarding the earnings that we used and the situations in which those earnings may not be correct. This will ensure that beneficiaries have full knowledge of our actions. Our notice will also tell beneficiaries how to obtain a reconsideration of our determination if they feel we were wrong, and will advise them of their responsibility to give us any further information that could be pertinent to their benefit adjustment.

It should be noted that we are not revising our regulations regarding extension of time for filing a report (§ 404.452(f)). The deadline for filing employer reports (W-2 forms) is well within the timeframes for required annual reports. In relying on these, as well as the SE tax return information, SSA will assume that posted earnings

are based on timely filed reports.

However, when a beneficiary requests an extension of time from IRS for filing a self-employment tax return, the beneficiary must either file a timely report of earnings with SSA, or request an extension of time for filing such a report from SSA. An extension granted by IRS will not be considered an extension of time granted by SSA.

This change in our rules is proposed in the spirit of improved service to our beneficiaries. First, this proposed rule would reduce the burden associated with the double filing of information with both SSA and IRS. Second, SSA would be able to shift resources devoted to the solicitation and processing of reports from beneficiaries under the current annual report process to other priority workloads, such as processing claims for benefits and responding to telephone inquiries. Finally, this proposed rule supports the President's request in his remarks on May 22, 1995 on signing the Paperwork Reduction Act of 1995, that agencies review their regulations with the goal of reducing by half the frequency of reports required from citizens. This proposed rule would eliminate the annual report of earnings form and the need for most working beneficiaries to file a separate report of earnings with SSA, resulting in a savings of up to 330,833 public burden hours each year.

We also propose to revise paragraphs (a)(1) and (a)(2) of § 404.452 by changing age 72 to age 70. These revisions would reflect the statutory change in the Social Security Amendments of 1977 that reduced from age 72 to 70, the age at which beneficiaries become exempt from the annual earnings test. This change was originally scheduled to take effect in 1982 but, due to a provision in the Omnibus Budget Reconciliation Act of 1981, it did not become effective until 1983. Since the statutory provisions were self-implementing, we exempted working beneficiaries age 70 and over from the annual earnings test beginning in 1983. However, we have not previously updated this regulation to take account of this statutory change.

Regulatory Procedures

Executive Order 12866

The Office of Management and Budget (OMB) has reviewed this proposed rule and determined that it meets the criteria for a significant regulatory action within the meaning of Executive Order 12866. As indicated earlier in this preamble, failure to file a timely report of earnings will result in a monetary penalty, unless we find that there was good cause for filing late. Since, for most beneficiaries,

the W-2 and/or self-employment tax return information will be considered the annual report of earnings required by section 203(f) of the Act, we anticipate that there will be very few penalties imposed on beneficiaries for failing to report their earnings. The loss of penalty dollars is estimated to be \$60-75 million for the 5-year period of fiscal years 1997 through 2001.

However, we believe that the loss of penalty income should not be given undue consideration because this income results from beneficiaries' failure to timely report their earnings to SSA. It has always been the goal of SSA to achieve maximum reporting compliance and if this goal was achieved, there would be no penalties imposed. Furthermore, we believe that the loss of penalty revenue is more than offset by the benefits that both the public and SSA would realize under the proposed rule. These benefits include the fact that up to 1.3 million beneficiaries will no longer be required to complete the annual report of earnings forms resulting in a reduction in the public reporting burden of up to 330,833 hours. In addition, this initiative will shift the annual report workload from SSA's peak workload period (January through March) until later in the year and thus, will allow SSA to divert scarce resources to other priority workloads, such as processing claims for benefits and responding to telephone inquiries, resulting in better overall service to the public.

Administrative savings for this initiative are estimated to be 540 workyears and \$23.2 million for fiscal years 1997 through 2001.

Regulatory Flexibility Act

We certify that this proposed rule will not have a significant economic impact on a substantial number of small entities since it affects only individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96-354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

This proposed regulation will impose no new reporting or recordkeeping requirements requiring OMB clearance. As indicated earlier in this preamble, we estimate that the proposed Annual Report of Earnings process will reduce the annual public reporting burden by up to 330,833 hours. This is the annual reporting burden currently associated with the completion and filing of forms SSA-777 and SSA-7770 (OMB Control Number 0960-0057). Although this proposed regulation would eliminate those forms, SSA will continue to

collect earnings information, through a number of other collection instruments already approved by OMB. In most cases, we will obtain this information through forms W-2 and schedule SEs approved for use by IRS. In those cases where additional information is required, we expect to obtain that information during the initial claims interview through forms approved for use by SSA (primarily the SSA-1 (Application for Retirement Benefits; OMB Approval Number 0960-0007) and the SSA-795 (Statement of Claimant or Other Person; OMB Approval Number 0960-0045)). In addition, SSA has developed a new form to collect the additional information needed from employers to correctly adjust benefits in special wage payment situations. We will submit this form to OMB for its review under section 3507(d) of the Paperwork Reduction Act of 1995.

(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)

List of Subjects in 20 CFR Part 404

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

Dated: November 1, 1996.

Shirley S. Chater,

Commissioner of Social Security.

For the reasons set out in the preamble, part 404 of chapter III of title 20 of the Code of Federal Regulations is proposed to be amended as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE

1. The authority citation for subpart E of part 404 continues to read as follows:

Authority: Secs. 202, 203, 204 (a) and (e), 205 (a) and (c), 222(b), 223(e), 224, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403, 404 (a) and (e), 405(a) and (c), 422(b), 423(e), 424a, 425, and 902(a)(5)).

2. Section 404.452 is amended by revising paragraphs (a)(1) and (a)(2), revising the last sentence of paragraph (b), and revising paragraph (d) to read as follows:

§ 404.452 Reports to Social Security Administration of earnings; wages; net earnings from self-employment.

(a) * * *

(1) The individual attained the age of 70 in or before the first month of entitlement to benefits in the taxable year, or

(2) The individual's benefit payments were suspended under the provisions described in § 404.456 for all months in a taxable year in which the individual was entitled to benefits and was under age 70.

(b) * * * The filing of an income tax return or a form W-2 with the Internal Revenue Service may serve as the report required to be filed under the provisions of this section where the income tax return or form W-2 shows the same wages and net earnings from self-employment that must be reported to the Administration under this section.

(d) *Information to be provided to us.* The report should show the name and social security claim number of the beneficiary about whom the report is made; identify the taxable year for which the report is made; show the total amount of wages for which the beneficiary rendered services during the taxable year (if applicable), the amount of net earnings from self-employment for such year (if applicable); and show the name and address of the individual making the report. To overcome the presumption that the beneficiary rendered services for wages exceeding the allowable amount and rendered substantial services in self-employment in each month (see § 404.435), we must also be told the specific months in which the beneficiary did not render services in employment for wages of more than the allowable amount (as described in § 404.435) and did not render substantial services in self-employment (as described in §§ 404.446 and 404.447).

* * * * *

[FR Doc. 97-100 Filed 1-2-97; 8:45 am]

BILLING CODE 4190-29-P

20 CFR Parts 404 and 416

[Regulations Nos. 4 and 16]

RIN 0960-AD73

Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Standards of Conduct for Claimant Representatives

AGENCY: Social Security Administration.

ACTION: Proposed rules.

SUMMARY: These proposed rules would revise our regulations governing representation of claimants seeking Social Security or supplemental security income (SSI) benefits under title II or XVI of the Social Security Act (the Act). They would establish standards of conduct and responsibility for persons

servicing as representatives and further define our expectations regarding their obligations to those they represent and to us. They would include statutorily and administratively imposed requirements and prohibitions.

DATES: To be sure that your comments are considered, we must receive them no later than March 4, 1997.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, MD 21235, sent by telefax to (410) 966-2830, sent by E-mail to "regulations@ssa.gov", or delivered to the Division of Regulations and Rulings, 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 hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Richard M. Bresnick, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1758.

SUPPLEMENTARY INFORMATION

Purpose and Scope

Existing regulations governing representatives' conduct (§§ 404.1740, *et seq.* and 416.1540, *et seq.*) under titles II and XVI primarily reiterate various statutory provisions set forth in the Act. Sections 404.1745 and 416.1545 also provide that a representative may be suspended or disqualified if he or she has violated those rules, been convicted of a violation of section 206 of the Act or "otherwise refused to comply with our rules and regulations on representing claimants in dealings with us." This is consistent with section 206(a)(1) of the Act, which provides that the Commissioner of Social Security (the Commissioner) may "suspend or prohibit from further practice before him any such person, agent, or attorney who refuses to comply with the Commissioner's rules and regulations * * *." Since their inception, the regulations have reflected the Commissioner's (formerly the Secretary of Health and Human Services' (the Secretary's)) broad authority over matters involving representatives' activities in their dealings with us.

These proposed rules specifically provide enforceable standards governing aspects of practice, performance and conduct for all persons who act as claimants' representatives. The proposed rules also recognize potential changes in the procedures used by the