

date of these rules. This rescission appears in the "Notices" section of today's Federal Register.

On December 6, 1995, we published these final rules as proposed rules in the Federal Register at 60 FR 62354 with a 60-day comment period. We received comments from only one source, which represents the largest professional organization of funeral directors in the United States. The commenter fully supported the proposed rules. Therefore, we are publishing the final rules essentially unchanged from the proposed rules.

#### Regulatory Procedures

##### *Regulatory Flexibility Act*

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

##### *Paperwork Reduction Act*

These final rules impose no additional reporting or recordkeeping requirements subject to the Office of Management and Budget clearance. (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: July 25, 1996.

Shirley S. Chater,

*Commissioner of Social Security.*

For the reasons set out in the preamble, subparts A, D, G, and H of part 404 of chapter III of title 20 of the Code of Federal Regulations are amended as follows:

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

#### **Subpart A—[Amended]**

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

Authority: Secs. 203, 205(a), 216(j), and 702(a)(5) of the Social Security Act (42 U.S.C. 403, 405(a), 416(j), and 902(a)(5)).

#### **§ 404.2 [Amended]**

2. Section 404.2 is amended by removing paragraphs (a)(2) through (a)(6) and redesignating paragraph (a)(7) as paragraph (a)(2).

#### **§ 404.3 [Amended]**

3. Section 404.3 is amended by removing paragraph (a) and redesignating paragraphs (b) and (c) as paragraphs (a) and (b), respectively.

#### **Subpart D—[Amended]**

4. The authority citation for subpart D of part 404 continues to read as follows:

Authority: Secs. 202, 203(a) and (b), 205(a), 216, 223, 225, 228(a)–(e), and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403(a) and (b), 405(a), 416, 423, 425, 428(a)–(e), and 902(a)(5)).

5. Section 404.347 is revised to read as follows:

#### **§ 404.347 "Living in the same household" defined.**

Living in the same household means that you and the insured customarily lived together as husband and wife in the same residence. You may be considered to be living in the same household although one of you is temporarily absent from the residence. An absence will be considered temporary if:

(a) It was due to service in the U.S. Armed Forces;

(b) It was 6 months or less and neither you nor the insured were outside of the United States during this time and the absence was due to business, employment, or confinement in a hospital, nursing home, other medical institution, or a penal institution;

(c) It was for an extended separation, regardless of the duration, due to the confinement of either you or the insured in a hospital, nursing home, or other medical institution, if the evidence indicates that you were separated solely for medical reasons and you otherwise would have resided together; or

(d) It was based on other circumstances, and it is shown that you and the insured reasonably could have expected to live together in the near future.

6. Section 404.390 is amended by revising the second sentence to read as follows:

#### **§ 404.390 General.**

\* \* \* If the insured is not survived by a widow(er) who meets this requirement, all or part of the \$255 payment may be made to someone else as described in § 404.392.

7. Section 404.392 is amended by revising the section heading and the introductory text of paragraph (a) to read as follows:

#### **§ 404.392 Who is entitled to the lump-sum death payment when there is no widow(er) who was living in the same household.**

(a) *General.* If the insured individual is not survived by a widow(er) who

meets the requirements of § 404.391, the lump-sum death payment shall be paid as follows:

\* \* \* \* \*

#### **§ 404.393 [Removed]**

8. Section 404.393 is removed.

#### **§ 404.394 [Removed]**

9. Section 404.394 is removed.

#### **§ 404.395 [Removed]**

10. Section 404.395 is removed.

#### **Subpart G—[Amended]**

11. The authority citation for subpart G of part 404 continues to read as follows:

Authority: Secs. 202(i), (j), (o), (p), and (r), 205(a), 216(i)(2), 223(b), 228(a), and 702(a)(5) of the Social Security Act (42 U.S.C. 402(i), (j), (o), (p), and (r), 405(a), 416(i)(2), 423(b), 428(a), and 902(a)(5)).

#### **§ 404.612 [Amended]**

12. Section 404.612 is amended by removing paragraph (e) and redesignating paragraphs (f), (g), and (h) as paragraphs (e), (f), and (g), respectively.

#### **§ 404.615 [Amended]**

13. Section 404.615 is amended by removing paragraph (b) and redesignating paragraphs (c) and (d) as paragraphs (b) and (c), respectively.

#### **Subpart H—[Amended]**

14. The authority citation for subpart H of part 404 continues to read as follows:

Authority: Secs. 205(a) and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a) and 902(a)(5)).

#### **§ 404.765 [Removed]**

15. Section 404.765 is removed.

[FR Doc. 96-20121 Filed 8-7-96; 8:45 am]

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### **ENVIRONMENT PROTECTION AGENCY**

#### **40 CFR Part 5**

[FRL-5548-8]

#### **Clean Air, Clean Water, Solid Waste, Pesticides Programs; Removal of Legally Obsolete Rule**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is today removing from

the Code of Federal Regulations (CFR) 40 CFR Part 5. This outdated rule created a schedule of tuition fees for technical and managerial training conducted directly by EPA under its programs in air, water, solid waste, radiation and pesticides. This rule is no longer legally in effect because it is inconsistent with how Government fees and charges are currently assessed under 31 U.S.C. 9701. Deleting this rule from the CFR will clarify the legal status of this rule for personnel of State and local governmental agencies, other Federal agencies, private industries, universities, and other non-EPA agencies and organizations. This action is in furtherance of government streamlining and will not adversely impact public health or the environment.

**EFFECTIVE DATE:** This final rule takes effect on August 8, 1996.

**FOR FURTHER INFORMATION CONTACT:** James H. Carr, EPA Institute (Mail Code 3632), EPA, 401 M Street, SW., Washington, DC 20460. Telephone: (202) 260-8047; or E-mail to: carr.james@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

On March 4, 1995, the President directed all Federal agencies and departments to conduct a comprehensive review of the regulations they administer and, by June 1, 1995, to identify those rules that are obsolete or unduly burdensome. EPA has conducted a review of its rules, including 40 CFR Part 5 issued under the authority of 31 USC § 483a. That law was enacted to allow federal agencies to recoup costs from identifiable special beneficiaries where the services rendered inured to the benefit of special recipients not the general public.

The removal of this rule from the CFR is in keeping with the policy view that charges should be set at rates rather than fixed dollar amounts in order to reflect changes in costs to the Government or changes in market prices of the property, resource or service provided. See OMB Circular A-25.

Inasmuch as this rule relates to Agency practice and in view of the subject matter, notice of proposed rule making and public comment were considered unnecessary.

**II. Obsolete Rule**

*Part 5—Tuition Fees for Direct Training.* 40 CFR Part 5 requires EPA to charge a schedule of tuition fees for all persons attending EPA technical and managerial training conducted directly by EPA (direct training) under its

programs in air, water, solid waste, radiation and pesticides which commence on or after January 1, 1974. On January 1, 1974, EPA issued a regulation which set a schedule of fixed dollar amounts for direct training.

On September 13, 1982, 31 USC § 483a was replaced by 31 USC § 9701, which established more objective criteria to recoup charges for governmental services or things of value. Accordingly, EPA is removing the current schedule of fixed dollar amounts in 40 CFR Part 5 from the CFR.

**III. Rulemaking Analysis**

*Regulatory Flexibility Act*

The EPA certifies that this rule does not have a significant economic impact on a substantial number of small entities.

*Executive Order 12866*

Under Executive Order 12866, [58 FR 51,735 (October 4, 1993)] the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

- (1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

*Unfunded Mandates Reform Act*

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector.

*Submission to Congress and the General Accounting Office*

Under section 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business

Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This is not a "major rule" as defined by section 804(2) of the APA as amended.

**List of Subjects in 40 CFR Part 5**

Environmental protection, Education, Intergovernmental relations.

Dated: July 29, 1996.

Alvin M. Pesachowitz,  
Acting Assistant Administrator, Office of  
Administration and Resources Management.

For the reasons set out in the preamble, 40 CFR chapter I under the authority of 31 U.S.C. 9701 is amended as follows.

**PART 5—[REMOVED]**

1. Part 5 is removed.

[FR Doc. 96-20229 Filed 8-7-96; 8:45 am]

BILLING CODE 6560-50-P

**40 CFR Part 52**

[WA47-7120a; FRL-5543-9]

**Clean Air Act Approval and Promulgation of Carbon Monoxide Implementation Plan for the State of Washington: Puget Sound Emission Inventory**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving the 1990 base year and 1995 projected year carbon monoxide emission inventory portion of the Puget Sound carbon monoxide (CO) State Implementation Plan (SIP) submitted on September 30, 1994, by the State of Washington Department of Ecology (Ecology) for the purpose of bringing about the attainment of the national ambient air quality standard (NAAQS) for CO.

**DATES:** This action is effective on September 23, 1996 unless adverse or critical comments are received by September 9, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Written comments should be addressed to: Montel Livingston, SIP Manager, Office of Air Quality (OAQ-107), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation