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DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 80

[Docket No. CDC-2015-0062; NIOSH-286]

RIN 0920-AA55

**Occupational Safety and Health Research and Related Activities;
Administrative Functions, Practices, and Procedures**

AGENCY: Centers for Disease Control and Prevention, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Health and Human Services (HHS) proposes the removal of its regulations pertaining to administrative functions, practices, and procedures for occupational safety and health research and related activities conducted by the National Institute for Occupational Safety and Health (NIOSH) in the Centers for Disease Control and Prevention (CDC). As a part of the retrospective review conducted by all Federal agencies, HHS has determined that these regulations are no longer in use by NIOSH and should be removed.

DATES: Comments must be received by [INSERT DATE 30 DAYS AFTER DATE

OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Written Comments: You may submit comments by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: NIOSH Docket Office, 1090 Tusculum Avenue, MS C-34, Cincinnati, OH 45226-1998.

Instructions: All submissions received must include the agency name (Centers for Disease Control and Prevention, HHS) and docket number (CDC-2015-0062; NIOSH-286) or Regulation Identifier Number (0920-AA55) for this rulemaking. All relevant comments, including any personal information provided, will be posted without change to <http://www.regulations.gov>.

Docket: For access to the docket go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Rachel Weiss, Program Analyst, 1090 Tusculum Ave, MS: C-46, Cincinnati, OH 45226; telephone (855)818-1629 (this is a toll-free number); email NIOSHregs@cdc.gov.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons or organizations are invited to participate in

this rulemaking by submitting written views, recommendations, and data. In addition, HHS invites comments on any aspect of this rulemaking.

All comments submitted will be available for examination in the rule docket (a publicly available repository of the documents associated with the rulemaking) both before and after the closing date for comments. A complete electronic docket containing all comments submitted will be available on <http://www.regulations.gov>.

Comments submitted electronically or by mail should be titled "Docket No. CDC-2015-0062" and should identify the author(s) and contact information in case clarification is needed. Electronic and written comments can be submitted to the addresses provided in the **ADDRESSES** section, above. All communications received on or before the closing date for comments will be fully considered by HHS.

II. Statutory Authority

HHS promulgated Part 80 of Title 42 to facilitate Section 21 (a)(1) of the Occupational Safety and Health (OSH) Act of 1970 (29 U.S.C. 670 (a)(1)), which authorizes the Director of NIOSH to conduct educational programs to provide an adequate supply of qualified personnel to carry out the purposes of the OSH Act. Part 80 established tuition fees for such training, as authorized by 31 U.S.C. 483a (31 U.S.C. 9701, as revised by Pub. L. 97-258, September 13, 1982), which permits agencies to "prescribe regulations

establishing the charge for service or thing of value provided by the agency.” In accordance with section 6 of Executive Order 13563, HHS conducted a retrospective analysis of its existing rules, determined Part 80 to be obsolete, and is proposing the removal of Part 80 from Title 42.

III. Summary of Proposed Rule

The provisions in Part 80 establish the NIOSH policies with respect to the charging of fees for direct training in occupational safety and health. Because NIOSH no longer offers direct training programs, these provisions are no longer needed. Removing Part 80 from Title 42 will have no effect on NIOSH procedures or practices, including the NIOSH funding of the Education and Research Centers for Occupational Safety and Health. This action is being done in accordance with Executive Order 13563, section 6, which requires that Federal agencies conduct retrospective analyses of existing rules. In conducting the analysis, HHS discovered that the Part 80 provisions were outdated.

IV. Regulatory Assessment Requirements

A. Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if

regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This proposed rule has been determined not to be a "significant regulatory action" under §3(f) of E.O. 12866. With this action, HHS is proposing the removal of Part 80 from Title 42. Because this notice of proposed rulemaking is entirely administrative and does not affect the economic impact, cost, or policies of any activities authorized by Title 42, HHS has not prepared an economic analysis and the Office of Management and Budget (OMB) has not reviewed this rulemaking.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 et seq., requires each agency to consider the potential impact of its regulations on small entities including small businesses, small governmental units, and small not-for-profit organizations. Because no substantive changes will be made to 42 CFR Part 85a as a result of this action, HHS certifies that this rule has "no significant economic impact upon a substantial number of small entities" within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

C. Paperwork Reduction Act

The Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., requires an agency to invite public comment on, and to obtain OMB approval of, any regulation that requires 10 or more people to report information to the agency or to keep certain records. Data collection and recordkeeping requirements for the health investigations of places of employment program receive OMB approval on an as-needed basis. The amendments in this rulemaking do not impact the collection of data.

D. Small Business Regulatory Enforcement Fairness Act

As required by Congress under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 et seq.), HHS will report the promulgation of this rule to Congress prior to its effective date.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 et seq.) directs agencies to assess the effects of Federal regulatory actions on State, local, and Tribal governments, and the private sector "other than to the extent that such regulations incorporate requirements specifically set forth in law." For purposes of the Unfunded Mandates Reform Act, this proposed rule does not include any Federal mandate that may result in increased annual expenditures in excess of \$100 million by State, local or Tribal

governments in the aggregate, or by the private sector.

F. Executive Order 12988 (Civil Justice)

This proposed rule has been drafted and reviewed in accordance with Executive Order 12988, "Civil Justice Reform," and will not unduly burden the Federal court system. This rule has been reviewed carefully to eliminate drafting errors and ambiguities.

G. Executive Order 13132 (Federalism)

HHS has reviewed this proposed rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have "federalism implications." The rule does 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."

H. Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks)

In accordance with Executive Order 13045, HHS has evaluated the environmental health and safety effects of this proposed rule on children. HHS has determined that the rule would have no environmental health and safety effect on children.

I. Executive Order 13211 (Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use)

In accordance with Executive Order 13211, HHS has evaluated the effects of this proposed rule on energy supply, distribution or use, and has determined that the rule will not have a significant adverse effect.

J. Plain Writing Act of 2010

Under Public Law 111-274 (October 13, 2010), executive Departments and Agencies are required to use plain language in documents that explain to the public how to comply with a requirement the Federal Government administers or enforces. HHS has attempted to use plain language in promulgating the proposed rule consistent with the Federal Plain Writing Act guidelines.

Proposed Rule

PART 80-- [REMOVED AND RESERVED]

For the reasons discussed in the preamble and under the authorities 29 U.S.C. 671, 31 U.S.C. 9701, and 42 U.S.C. 216(b), the Department of Health and Human Services proposes to amend 42 CFR chapter I by removing part 80.

Dated: August 3, 2015.

Sylvia M. Burwell
Secretary, Department of Health and Human Services

Billing Code: 4163-18-P

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