

definition of "agency" contained in 5 U.S.C. 551(1). Section 551(1)(E) excludes from the term "agency" an agency that is composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them. The Railroad Retirement Board falls within this exclusion (45 U.S.C. 231f(a)) and is therefore exempt from the Regulatory Flexibility Act and the Unfunded Mandates Act.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct compliance costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed this final rule under the threshold criteria of Executive Order 13132 and have determined that it would not have a substantial direct effect on the rights, roles, and responsibilities of States or local governments.

This rule was published as a proposed rule on December 18, 2002 (67 FR 77447). The proposed rule invited the public and interested parties to comment on the proposed rule. No comments were received.

#### List of Subjects in 20 CFR Part 206

Railroad retirement.

■ For the reasons set out in the preamble, the Railroad Retirement Board adds a new Part 206 to Title 20, chapter II of the Code of Federal Regulations to read as follows:

#### PART 206—ACCOUNT BENEFITS RATIO

Sec.

206.1 Definitions.

206.2 Computations.

**Authority:** 45 U.S.C. 231f(b)(5); 45 U.S.C. 231u(a).

##### § 206.1 Definitions.

Except as otherwise expressly noted, as used in this part—

*Account benefits ratio* means the amount determined by the Railroad Retirement Board by dividing the fair market value of the assets in the Railroad Retirement Account and the National Railroad Retirement Investment Trust (and for years prior to 2002, the Social Security Equivalent Benefit Account) as of the close of each fiscal year by the total benefits and administrative expenses paid from those accounts during the fiscal year.

*Administrative expenses paid* means the amount of the cash transfers from the Railroad Retirement Account to the agency's single administrative fund.

Also included in this term is the amount of the cash transfers from the Railroad Retirement Account to the Limitation on the Office of Inspector General and the administrative expenses paid by the National Railroad Retirement Investment Trust.

*Assets* means the market value of cash and investments in the Railroad Retirement Account and the National Railroad Retirement Investment Trust (and for years before 2002, the Social Security Equivalent Benefit Account).

*Average account benefits ratio* means for any calendar year, the average of the account benefits ratio for the 10 most recent fiscal years ending before such calendar year. If the amount computed is not a multiple of 0.1, such amount shall be increased to the next highest 0.1.

*Total benefits paid* means the total amount of benefits paid from the Railroad Retirement Account and the National Railroad Retirement Investment Trust in a fiscal year minus any benefit overpayments actually recovered during that fiscal year.

##### § 206.2 Computation.

(a) On or before November 1, 2003, the Railroad Retirement Board shall:

(1) Compute the account benefits ratios for each of the most recent 10 preceding fiscal years; and

(2) Certify the account benefits ratio for each such fiscal year to the Secretary of the Treasury.

(b) On or before November 1 of each year after 2003, the Railroad Retirement Board shall:

(1) Compute the account benefits ratio for the fiscal year ending in such year; and

(2) Certify the account benefits ratio for such fiscal year to the Secretary of the Treasury.

(c) No later than May 1 of each year, beginning 2003, the Board shall compute its projection of the account benefits ratio and the average account benefits ratios for each of the next succeeding 5 fiscal years.

Dated: August 19, 2003.

By Authority of the Board.

**Beatrice Ezerski,**

*Secretary to the Board.*

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#### SOCIAL SECURITY ADMINISTRATION

#### 20 CFR Parts 404 and 416

[Regulations Nos. 4 and 16]

RIN 0960-AF37

#### Clarification of Rules Involving Residual Functional Capacity Assessments; Clarification of Use of Vocational Experts and Other Sources at Step 4 of the Sequential Evaluation Process; Incorporation of "Special Profile" Into Regulations

**AGENCY:** Social Security Administration.

**ACTION:** Final rules.

**SUMMARY:** For purposes of this document, "we," "our," and "SSA" refer to the Social Security Administration and State agencies that make disability determinations for the Social Security Administration. "You" and "your" refer to individuals who claim benefits from the Social Security Administration based on "disability."

In this final rule we clarify our rules about the responsibility that you have to provide evidence and the responsibility that we have to develop evidence in connection with your claim of disability. This includes our rules about when we assess your residual functional capacity (RFC) and how we use this RFC assessment when we decide whether you can do your past relevant work or other work. These clarifications address issues of responsibility raised by some courts in recent cases; clarify that we may use vocational experts (VEs), vocational specialists (VSs), or other resources to obtain evidence we need to help us determine whether your impairment(s) prevents you from doing your past relevant work; add a special provision to our rules stating that, if you are at least 55 years old, and specific other circumstances are present, we will find that you are disabled; and make a number of minor editorial changes to clarify and update the language of our rules, and to use simpler language in keeping with our goal of using plain language in our regulations.

**DATES:** These rules will be effective September 25, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Martin Sussman, Regulations Officer, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, 410-965-1767 or TTY 800-966-5609 for information about these rules. For information on eligibility or filing for benefits, call our national toll-free number, 800-772-1213 or TTY 800-325-0778, or visit our Internet Web site,