

Where a search and retrieval cannot be performed entirely by clerical personnel—for example, where the identification of Review Board records within the scope of a request requires the use of professional personnel—the fee shall be \$20.15 for each hour of search time spent by such professional personnel. Where the time of managerial personnel is required, the fee shall be \$47.40 for each hour of time spent by such managerial personnel.

§ 1410.40 Processing of FOIA requests.

(a) Where a request complies with § 1410.25 as to specificity and statement of willingness to pay or request for fee waiver or reduction, the Designated FOIA Officer shall acknowledge receipt of the request and commence processing of the request. The Designated FOIA Officer shall prepare a written response:

- (1) Granting the request;
- (2) Denying the request;
- (3) Granting or denying it in part;
- (4) Stating that the request has been referred to another agency under § 1410.25; or
- (5) Informing the requester that responsive Review Board records cannot be located or do not exist.

(b) Action pursuant to this section to provide access to requested Review Board records shall be taken within 10 working days of receipt of a request for Review Board records, as defined in § 1410.25, except that where unusual circumstances require an extension of time before a decision on a request can be reached and the person requesting Review Board records is promptly informed in writing by the Designated FOIA Officer of the reason for such extension and the date on which a determination is expected to be made, the Designated FOIA Officer may take an extension not to exceed 10 working days.

(c) For purposes of this section and § 1410.45, the term "unusual circumstances" may include but is not limited to the following:

- (1) The need to search, collect, and appropriately examine a voluminous amount of separate and distinct Review Board records that are demanded in a single request; or
- (2) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

§ 1410.45 Procedure for appeal of denial of requests for Review Board records and denial of requests for fee waiver or reduction.

(a)(1) A person whose request for access to Review Board records or request for fee waiver or reduction is denied in whole or in part may appeal that determination to the Executive Director within 30 days of the determination. Appeals filed pursuant to this section must be in writing, directed to the Executive Director at the address stated above, and clearly marked "Freedom of Information Act Appeal." Such an appeal received by the Review Board that is not properly addressed and marked will be so addressed and marked by Review Board personnel as soon as it is properly identified and then will be forwarded to the Executive Director. Appeals taken pursuant to this paragraph will be considered to be received upon actual receipt by the Executive Director.

(2) The Executive Director shall make a determination with respect to any appeal within 20 working days after the receipt of such appeal. If, on appeal, the denial of the request for Review Board records or fee reduction is in whole or in part upheld, the Executive Director shall notify the person making such request of the provisions for judicial review of that determination.

(b) In unusual circumstances, as defined in § 1410.40(c), the time limits prescribed for deciding an appeal pursuant to this section may be extended by up to 10 working days by the Executive Director, who will send written notice to the requester setting forth the reasons for such extension and the date on which a determination or appeal is expected to be dispatched.

§ 1410.50 Requests for classified agency records.

The Review Board may at any time be in possession of classified records received from other Federal agencies. Except with respect to those documents identified in § 1410.10(a)(2), the Review Board shall refer requests under § 1410.25 for such records or information to the other agency without making an independent determination as to the releasability of such documents. The Review Board shall refer requests for classified records in a manner consistent with Executive Order 12958 of April 17, 1995, or other such law as may apply.

Dated: August 25, 1995.

T. Jeremy Gunn,

Acting General Counsel, Assassination Records Review Board.

[FR Doc. 95-21523 Filed 8-30-95; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-5288-1]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Northwestern States Portland Cement Company Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region VII announces the deletion of the Northwestern States Portland Cement Company Superfund Site from the National Priorities List (NPL). The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) which the EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. The reason this action is being taken is that Superfund Remedial Activities have been completed. EPA and the State of Iowa have determined that no further cleanup by the Responsible Party is appropriate under CERCLA. Moreover, EPA and the State have determined that CERCLA activities conducted at the Site to date have been protective of public health, welfare and the environment.

EFFECTIVE DATE: August 31, 1995.

FOR FURTHER INFORMATION CONTACT: Paul W. Roemer, Remedial Project Manager, Superfund Branch, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Ave. Kansas City, KS 66101, (913) 551-7694.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is the Northwestern States Portland Cement Company Superfund Site, Mason City, Cerro Gordo County, Iowa.

A notice of intent to delete for this site was published October 19, 1995 (59 FR 52747). The closing date for comments was thirty (30) days after the notice was published. EPA did not receive any comments on the proposed deletion.

Based upon a review of monitoring data from the site, EPA in consultation with the State of Iowa has determined that the site does not pose a significant risk to human health or the environment. The site shall be monitored by the Responsible Party in accordance with the Operation and Monitoring Plan approved by EPA.

Future reviews of monitoring data will be conducted, in conjunction with the State of Iowa, at a minimum of every five years, or until such time when no hazardous substances, pollutants or contaminants remain at the site above levels that allow for unrestricted use and unlimited exposure.

The EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Response Fund (Fund). Pursuant to section 105(e) of CERCLA, any site deleted from the NPL remains eligible for Fund-financed Remedial Actions if conditions at the site warrant such action. Deletion from the NPL does not affect responsible party liability or impede EPA efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Chemicals, Hazardous substances, Hazardous wastes, Superfund.

Dennis Grams,

Regional Administrator.

For the reasons set out in the preamble 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 42 U.S.C. 9601–9657; 33 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing the Site “Northwestern States Portland Cement Company Superfund Site, Cerro Gordo, Iowa”.

[FR Doc. 95–21407 Filed 8–30–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 400 and 411

[BPD–482–FC]

RIN 0938–AD73

Medicare Program; Medicare Secondary Payer for Individuals Entitled to Medicare and Also Covered Under Group Health Plans

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: These regulations establish limits on Medicare payment for services furnished to individuals who are entitled to Medicare on the basis of disability and who are covered under large group health plans (LGHPs) by virtue of their own or a family member's current employment status with an employer; and prohibit LGHPs from taking into account that those individuals are entitled to Medicare on the basis of disability.

They also implement certain other provisions of section 1862(b) of the Social Security Act, as amended by the Omnibus Budget Reconciliation Acts of 1986, 1989, 1990, and 1993 and the Social Security Act Amendments of 1994. Those amendments affect the Medicare secondary payer rules for individuals who are entitled to Medicare on the basis of age or who are eligible or entitled on the basis of end stage renal disease and who are also covered under group health plans (GHPs). The provisions that apply to all three groups include—

- The rules under which HCFA determines that a GHP or LGHP is not in conformance with the requirements and prohibitions of the statute;
- The appeals procedures respecting GHPs and LGHPs that HCFA finds to be nonconforming.
- The referral of nonconforming plans to the Internal Revenue Service; and
- The rules for recovery of conditional or mistaken Medicare payments made by HCFA.

The intent of the MSP provisions is to ensure that Medicare does not pay primary benefits for services for which a GHP or LGHP is the proper primary payer and that beneficiaries covered under these plans are not disadvantaged vis-a-vis other individuals who are covered under the plan but are not entitled to Medicare.

DATES: Effective Dates: These regulations are effective on October 2, 1995.

Comment Date: We will consider comments that we receive no later than 5 p.m. on October 30, 1995.

ADDRESSES: Mail an original and 3 copies of written comments to the following address:

Health Care Financing Administration,
Department of Health and Human
Services, Attention: BPD–482–FC,
P.O. Box 26676, Baltimore, MD 21207.

If you prefer, you may deliver original and 3 copies of your written comments to one of the following addresses:

Room 309–G, Hubert H. Humphrey
Building, 200 Independence Avenue,
SW., Washington, DC 20201, or

Room C5–09–26, 7500 Security
Boulevard, Baltimore, MD 21244–
1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD–482–FC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

For comments that relate to information collection requirements, mail a copy of comments to:

Office of Information and Regulatory
Affairs, Office of Management and
Budget, Room 10235, New Executive
Office Bldg., Washington, D.C. 30503,
Attention: Allison Herron Eydt, Desk
Officer for HCFA

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FOR FURTHER INFORMATION CONTACT: Herbert Pollock, (410) 786–4474.