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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Parts 916 and 917

**[Docket No. FV01–916–1 FIR]**

## Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting, as a final rule, with minor changes, an interim final rule that revised the handling requirements for California nectarines and peaches by modifying the grade, size, and maturity requirements for fresh shipments of these fruits, beginning with 2001 season shipments. This rule also continues in effect the requirements for placement of Federal-State Inspection Service lot stamps for the 2001 season. The marketing orders regulate the handling of nectarines and peaches grown in California and are administered locally by the Nectarine Administrative and Peach Commodity Committees (committees). This rule enables handlers to continue shipping fresh nectarines and peaches meeting consumer needs in the interests of producers, handlers, and consumers of these fruits.

**EFFECTIVE DATE:** August 2, 2001.

**FOR FURTHER INFORMATION CONTACT:** Terry Vawter, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California, 93721; telephone (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491; Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938. or E-mail: Jay.Guerber@usda.gov.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement Nos. 124 and 85, and Marketing Order Nos. 916 and 917 (7 CFR parts 916 and 917) regulating the handling of nectarines and peaches grown in California, respectively, hereinafter referred to as the ''orders.'' The marketing agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Under the orders, lot stamping, grade, size, maturity, container, and pack requirements are established for fresh shipments of California nectarines and peaches. Such requirements are in effect on a continuing basis. The Nectarine Administrative Committee (NAC) and the Peach Commodity Committee (PCC), which are responsible for local administration of the orders, met on December 5, 2000, and unanimously recommended that the handling requirements be revised for the 2001 season, which began April 1. The changes: (1) Continue the lot stamping requirements which were in effect for the 2000 season; (2) authorize shipments of ''CA Utility'' quality fruit to continue during the 2001 season; and (3) revise varietal maturity, quality, and size requirements to reflect recent changes in growing conditions. These changes continue in effect as published in the interim final rule, with minor changes.

The committees meet prior to and during each season to review the rules and regulations effective on a continuing basis for California nectarines and peaches under the orders. Committee meetings are open to the public and interested persons are encouraged to express their views at these meetings. The Department reviews committee recommendations and information, as well as information from other sources, and determines whether modification, suspension, or termination of the rules and regulations would tend to effectuate the declared policy of the Act.

No official crop estimate was available at the time of the committees' December meetings because the nectarine and peach trees were dormant. The committees subsequently recommended a crop estimate at their meetings in early spring. Preliminary estimates indicate that the 2001 crop will be slightly smaller than the 2000 crop, which totaled 20,645,000 containers of nectarines and 21,491,000 containers of peaches. The 2001 crop is estimated to be 19,351,000 containers or container equivalents of nectarines and 19,976,000 containers or container equivalents of peaches.

### Lot Stamping Requirements

Sections 916.55 and 917.45 of the orders require inspection and certification of nectarines and peaches,

respectively, handled by handlers. Sections 916.115 and 917.150 of the nectarine and peach orders' rules and regulations, respectively, require that all exposed or outside containers of nectarines and peaches, and at least 75 percent of the total containers on a pallet, be stamped with the Federal-State Inspection Service (inspection service) lot stamp number after inspection and before shipment to show that the fruit has been inspected. These requirements apply except for containers that are loaded directly onto railway cars, exempted, or mailed directly to consumers in consumer packages.

Lot stamp numbers are assigned to each handler by the inspection service, and are used to identify the handler and the date on which the container was packed. The lot stamp number is also used by the inspection service to identify and locate the inspector's corresponding working papers or field notes. Working papers are the documents each inspector completes while performing an inspection on a lot of nectarines or peaches. Information contained in the working papers supports the grade levels certified to by the inspector at the time of the inspection.

The lot stamp number has value for the industries, as well. The committees utilize the lot stamp number and date codes to trace fruit in the container back to the orchard where it was harvested. This information is essential in providing quick information for a crisis management program instituted by the industries. Without the lot stamp information on each container, the ''trace back'' effort, as it is called, would be jeopardized.

Recently, several new containers have been introduced for use by nectarine and peach handlers. These containers are returnable plastic containers. Use of these containers may represent substantial savings to retailers for storage and disposal, as well as for handlers who do not have to pay for traditional, single-use, containers. Fruit is packed in the containers by the handler, delivered to the retailer, emptied, and returned to a central clearinghouse for cleaning and redistribution to the handler. However, because they were designed for reuse, these containers do not support markings that are permanently affixed to the container. All markings must be printed on cards that slip into tabs on the front or sides of the containers. The cards are easily inserted and removed, and further contribute to the efficient reuse of the container.

The cards are a concern for the inspection service and the industries. Because of their unique portability, the cards on pallets of inspected containers could easily be moved to pallets of uninspected containers, thus permitting a handler to avoid inspection on a lot or lots of nectarines or peaches. This would also jeopardize the use of the lot stamp numbers for the industries' ''trace back'' program.

To address this concern for the 2000 season, the committees recommended that pallets of inspected fruit be identified with a USDA-approved pallet tag containing the lot stamp number, in addition to the lot stamp number printed on the card on the container. In this way, noted the committees, an audit trail would be created, confirming that the lot stamp number on the containers on each pallet corresponds to the lot stamp number on the pallet tag.

The committees and the inspection service presented their concerns to the manufacturers of these types of containers prior to the 2000 season. At that time, one manufacturer indicated a willingness to address the problem by offering an area on the principal display panel where the container markings would adhere to the container. Another possible improvement discussed was for an adhesive for the current style of containers which would securely hold the cards with the lot stamp numbers, yet would be easy for the clearinghouse to remove when the containers are washed. However, the changes would not be in effect for the 2000 season, but were anticipated to be in effect for the 2001 season.

In a meeting of the Returnable Plastic Container Task Force on November 1, 2000, it was determined that while such a display panel might be available for placement of the cards on some containers, there was no assurance from container manufacturers that such a panel would be available for all returnable plastic containers utilized by the industries. In addition, an adhesive is reportedly currently available, which may hold the cards securely in place while affording the ease of removal necessary for cleaning and redistribution. However, as the subcommittee found, the adhesive has yet to be tested under current conditions and may not be widely available.

For those reasons, the task force recommended to the committees that the regulation in effect for the 2000 season requiring lot stamp numbers on USDA-approved pallet tags, as well as on individual containers on a pallet, be again required for the 2001 season. The committees, in turn, recommended unanimously that such requirement be extended for the 2001 season, as well.

Thus, the amendment of §§ 916.115 and 917.150 continues in effect to require the lot stamp number to be printed on a USDA-approved pallet tag, in addition to the requirement that the lot stamp number be applied to cards on all exposed or outside containers, and not less than 75 percent of the total containers on a pallet.

**Grade and Quality Requirements**

Sections 916.52 and 917.41 of the orders authorize the establishment of grade and quality requirements for nectarines and peaches, respectively. Prior to the 1996 season, § 916.356 required nectarines to meet a modified U.S. No. 1 grade. Specifically, nectarines were required to meet U.S. No. 1 grade requirements, except for a slightly tighter requirement for scarring and a more liberal allowance for misshapen fruit. Prior to the 1996 season, § 917.459 required peaches to meet the requirements of a U.S. No. 1 grade, except for a more liberal allowance for open sutures that were not ''serious damage.''

This rule continues in effect the revision of §§ 916.350, 916.356, 917.442, and 917.459 to permit shipments of nectarines and peaches meeting ''CA Utility'' quality requirements during the 2001 season. (''CA Utility'' fruit is lower in quality than that meeting the modified U.S. No. 1 grade requirements.) Shipments of nectarines and peaches meeting ''CA Utility'' quality requirements have been permitted each season since 1996.

Studies conducted by the NAC and PCC indicate that some consumers, retailers, and foreign importers find the lower-quality fruit acceptable in some markets. When shipments of ''CA Utility'' nectarines were first permitted in 1996, they represented 1.1 percent of all nectarine shipments, or approximately 210,000 containers. Shipments of ''CA Utility'' nectarines reached a high of 4.5 percent (928,500 containers) during the 2000 season, but usually represent approximately 3 to 3.5 percent of total nectarine shipments. Shipments of ''CA Utility'' peaches totaled 1.9 percent of all peach shipments, or approximately 366,000 containers, during the 1996 season. Shipments of ''CA Utility'' peaches reached a high of 4.1 percent of all peach shipments (872,500 containers) during the 2000 season, but usually range from 3 to 3.5 percent of total peach shipments.

Handlers have also commented that the availability of ''CA Utility'' lends flexibility to their packing operations.

They have noted that they now have the opportunity to remove marginal nectarines and peaches from their U.S. No. 1 containers and place this fruit in containers of ''CA Utility.'' This flexibility, the handlers note, results in making the contents of their U.S. No. 1 containers better without sacrificing any fruit.

For these reasons, the committees unanimously recommended that shipments of ''CA Utility'' quality nectarines and peaches be permitted for the 2001 season with a continuing in-house statistical review. The revisions of paragraphs (d) of §§ 916.350 and 917.442, and paragraphs (a)(1) of §§ 916.356 and 917.459 continue in effect to permit shipments of nectarines and peaches meeting ''CA Utility'' quality requirements during the 2001 season, on the same basis as the 2000 season.

**Maturity Requirements**

Both orders provide (in §§ 916.52 and 917.41) authority to establish maturity requirements for nectarines and peaches, respectively. The minimum maturity level currently specified for nectarines and peaches is ''mature'' as defined in the standards. Additionally, both orders' rules and regulations provide for a higher ''well matured'' classification. For most varieties, ''well-matured'' determinations for nectarines and peaches are made using maturity guides (e.g., color chips). These maturity guides are reviewed each year by the Shipping Point Inspection Service (SPI) to determine whether they need to be changed, based upon the most-recent information available on the individual characteristics of each nectarine and peach variety.

These maturity guides established under the handling regulations of the California tree fruit marketing orders have been codified in the Code of Federal Regulations as TABLE 1 in §§ 916.356 and 917.459, for nectarines and peaches, respectively.

The requirements in the 2001 handling regulations are the same as those that appeared in the 2000 handling regulations with a few exceptions. Those exceptions are explained in this rule.

*Nectarines:* Requirements for ''well-matured'' nectarines are specified in § 916.356 of the order's rules and regulations. This rule continues in effect the revision of TABLE 1 of paragraph (a)(1)(iv) of § 916.356 to add maturity guides for two varieties of nectarines. Specifically, SPI recommended adding maturity guides for the Diamond Bright nectarine variety to be regulated at the J maturity guide, and for the Honey Kist variety to be regulated at the I maturity guide.

The NAC recommended these maturity guide requirements based on SPI's continuing review of individual maturity characteristics and identification of the appropriate maturity guide corresponding to the ''well-matured'' level of maturity for nectarine varieties in production.

*Peaches:* Requirements for ''well-matured'' peaches are specified in § 917.459 of the order's rules and regulations. This rule continues in effect the revision of TABLE 1 of paragraph (a)(1)(iv) of § 917.459 to add maturity guides for four varieties of peaches. Specifically, SPI recommended adding maturity guides for the Autumn Flame and Vista peach varieties to be regulated at the J maturity guide, for the Earlitreat variety to be regulated at the H maturity guide, and for the Summer Zee variety to be regulated at the L maturity guide.

The PCC recommended these maturity guide requirements based on SPI's continuing review of individual maturity characteristics and identification of the appropriate maturity guide corresponding to the ''well-matured'' level of maturity for peach varieties in production.

*Size Requirements:* Both orders provide (in §§ 916.52 and 917.41) authority to establish size requirements. Size regulations encourage producers to leave fruit on the tree longer, which improves both size and maturity of the fruit. Acceptable fruit size provides greater consumer satisfaction and promotes repeat purchases; and, therefore, increases returns to producers and handlers. In addition, increased fruit size results in increased numbers of packed containers of nectarines and peaches per acre, also a benefit to producers and handlers.

Varieties recommended for specific size regulations have been reviewed and such recommendations are based on the specific characteristics of each variety. The NAC and PCC conduct studies each season on the range of sizes attained by the regulated varieties and those varieties with the potential to become regulated, and determine whether revisions and additions to the size requirements are appropriate.

*Nectarines:* Section 916.356 of the order's rules and regulations specifies minimum size requirements for fresh nectarines in paragraphs (a)(2) through (a)(9). This rule continues in effect the revision of § 916.356 to establish variety-specific minimum size requirements for 7 varieties of nectarines, which were produced in commercially significant quantities of more than 10,000 containers for the first time during the 2000 season. This rule also continues in effect the removal of the variety-specific minimum size requirements for 11 varieties of nectarines whose shipments fell below 5,000 containers during the 2000 season.

For example, one of the varieties recommended for addition to the variety-specific minimum size requirements is the September Free variety of nectarines, recommended for regulation at a minimum size 80. Studies of the size ranges attained by the September Free variety revealed that 100 percent of the containers met the minimum size of 80 during the 2000 season. Sizes ranged from size 40 to size 80, with 3.3 percent of the packages in the 40 sizes, 37 percent in the 50 sizes, 32.5 percent in the 60 sizes, 23.8 percent in the 70 sizes and 3.3 percent at size 80.

A review of other varieties with the same harvesting period indicated that the September Free variety was also comparable to those varieties in its size ranges for that time period. Discussions with handlers known to handle the variety confirm this information regarding minimum size and harvesting period, as well. Thus, the recommendation to place the September Free variety in the variety-specific minimum size regulation at a minimum size 80 is appropriate.

Historical data such as this provides the NAC with the information necessary to recommend the appropriate sizes at which to regulate various nectarine varieties. In addition, producers and handlers of the varieties affected are personally invited to comment when such size recommendations are deliberated. Producer and handler comments are also considered at both NAC and subcommittee meetings when the staff receives such comments, either in writing or verbally.

For reasons similar to those discussed in the preceding paragraph, the revision of the introductory text of paragraph (a)(3) of § 916.356 continues in effect to include the Crimson Baby nectarine variety, and the revision of the introductory text of paragraph (a)(4) continues in effect to include the Scarlet Jewels nectarine variety. In addition, the revision of the introductory text of paragraph (a)(6) of § 916.356 continues in effect to include the Arctic Mist, August Pearl, July Pearl, September Free, and Spring Sweet nectarine varieties.

This rule also continues in effect the revision of the introductory text of paragraphs (a)(4) and (a)(6) of § 916.356 to remove 11 varieties from the variety-specific minimum size requirements

specified in the section because less than 5,000 containers of each of these varieties were produced during the 2000 season. Specifically, the revision of the introductory text of paragraph (a)(4) of § 916.356 continues in effect the removal of the Diamond Jewel and May Lion nectarine varieties; and the revision of the introductory text of paragraph (a)(6) of § 916.356 continues in effect the removal of the Alshir Red, Autumn Delight, Crystal Rose, Fairlane, Fantasia, Kay Bright, Niagra Grand, Rio Red, and White September nectarine varieties.

Nectarine varieties removed from the nectarine variety-specific minimum size requirements become subject to the non-listed variety size requirements specified in paragraphs (a)(7), (a)(8), and (a)(9) of § 916.356.

*Peaches:* Section 917.459 of the order's rules and regulations specifies minimum size requirements for fresh peaches in paragraphs (a)(2) through (a)(6), and paragraphs (b) and (c). This rule continues in effect the revision of § 917.459 to establish variety-specific minimum size requirements for 10 peach varieties that were produced in commercially significant quantities of more than 10,000 containers for the first time during the 2000 season. This rule also continues in effect the removal of the variety-specific minimum size requirements for 9 varieties of peaches whose shipments fell below 5,000 containers during the 2000 season.

For example, one of the varieties recommended for addition to the variety-specific minimum size requirements is the Coral Princess variety of peaches, which was recommended for regulation at a minimum size 72. Studies of the size ranges attained by the Coral Princess variety revealed that 100 percent of the containers met the minimum size of 72 during the 2000 season. The sizes ranged from the 30 sizes to the 70 sizes, with 1.6 percent of the containers meeting the 30 sizes, 37 percent meeting the 40 sizes, 55.9 percent meeting the 50 sizes, 4.9 percent meeting the 60 sizes, and 0.6 percent meeting size 72. The size distribution for the 2000 season was similar to the size distribution for the 1999 season.

A review of other varieties with the same harvesting period indicated that the Coral Princess variety was also comparable to those varieties in its size ranges for that time period. Discussions with handlers known to handle the variety confirm this information regarding minimum size and harvesting period, as well. Thus, the recommendation to place the Coral Princess variety in the variety-specific minimum size regulation at a minimum size 72 is appropriate.

Historical data such as this provides the PCC with the information necessary to recommend the appropriate sizes at which to regulate various peach varieties. In addition, producers and handlers of the varieties affected are personally invited to comment when such size recommendations are deliberated. Producer and handler comments are also considered at both PCC and subcommittee meetings when the staff receives such comments, either in writing or verbally.

For reasons similar to those discussed in the preceding paragraph, the revision of the introductory text of paragraph (a)(5) of § 917.459 continues in effect to include the Kingscrest peach variety; and the revision of the introductory text of paragraph (a)(6) of § 917.459 continues in effect to include the Autumn Red, Coral Princess, Garnet Jewel, Ivory Princess, Klondike, Pretty Lady, Snow Jewel, Summer Dragon, and Sweet Dream peach varieties.

This rule also continues in effect the revision of the introductory text of paragraphs (a)(2), (a)(3), (a)(5), and (a)(6) of § 917.459 to remove 9 peach varieties from the variety-specific minimum size requirements specified in the section because less than 5,000 containers of each of these varieties were produced during the 2000 season. Thus, the revision of the introductory text of paragraph (a)(2) of § 917.459 continues in effect the removal of the Lady Sue peach variety; the revision of the introductory text of paragraph (a)(3) continues in effect the removal of the Goldcrest peach variety; and the revision of the introductory text of paragraph (a)(5) continues in effect the removal of the Merrill Gemfree peach variety. The revision of the introductory text of paragraph (a)(6) of § 917.459 continues in effect the removal of the Autumn Lady, Early O'Henry, Late September Snow, N117, Red Sun, and Suncrest peach varieties.

Peach varieties removed from the peach variety-specific minimum size requirements become subject to the non-listed variety size requirements specified in paragraphs (b) and (c) of § 917.459.

The NAC and PCC recommended these changes in the minimum size requirements based on a continuing review of the sizing and maturity relationships for these nectarine and peach varieties, and the consumer acceptance levels for various fruit sizes. This rule is designed to establish minimum size requirements for fresh nectarines and peaches consistent with expected crop and market conditions.

This rule reflects the committees' and the Department's appraisal of the need to revise the handling requirements for California nectarines and peaches, as specified. The Department has determined that this rule will have a beneficial impact on producers, handlers, and consumers of fresh California nectarines and peaches.

This rule continues in effect the handling requirements for fresh California nectarines and peaches consistent with expected crop and market conditions, and will help ensure that all shipments of these fruits made each season will meet acceptable handling requirements established under each of these orders. This rule will also help the California nectarine and peach industries provide fruit desired by consumers. This rule is designed to establish and maintain orderly marketing conditions for these fruits in the interests of producers, handlers, and consumers.

**Final Regulatory Flexibility Analysis**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 300 California nectarine and peach handlers subject to regulation under the orders covering nectarines and peaches grown in California, and about 1,800 producers of these fruits in California. Small agricultural service firms, which includes handlers, are defined by the Small Business Administration [13 CFR 121.201] as those whose annual receipts are less than $5,000,000. Small agricultural producers are defined by the Small Business Administration as those having annual receipts of less than $500,000. A majority of these handlers and producers may be classified as small entities.

The committees' staff has estimated that there are less than 20 handlers in the industry who could be defined as other than small entities. In the 2000 season, the average handler price received was $9.00 per container or

container equivalent of nectarines or peaches. A handler would have to ship at least 555,555 containers to have annual receipts of $5,000,000. Given data on shipments maintained by the committees' staff and the average handler price received during the 2000 season, the committees' staff estimates that small handlers represent approximately 94 percent of the handlers within the industry.

The committees' staff has also estimated that approximately 22 percent of the producers in the industry could be defined as other than small entities. In the 2000 season, the average producer price received was $5.50 per container or container equivalent for nectarines, and $5.25 per container or container equivalent for peaches. A producer would have to produce at least 90,910 containers of nectarines and 95,239 containers of peaches to have annual receipts of $500,000. Given data maintained by the committees' staff and the average producer price received during the 2000 season, the committees' staff estimates that small producers represent approximately 78 percent of the producers within the industry.

Under §§ 916.52 and 917.41 of the orders, grade, size, maturity, container, and pack requirements are established for fresh shipments of California nectarines and peaches, respectively. Such requirements are in effect on a continuing basis. The NAC and PCC met on December 5, 2000, and unanimously recommended that the handling requirements be revised for the 2001 season, which began April 1, 2001. These recommendations had been presented to the committees by various subcommittees, each charged with the review and discussion of the changes. This rule continues in effect the revisions to the handling requirements to: (1) Continue the lot stamping requirements which were in effect for the 2000 season; (2) authorize shipments of ''CA Utility'' quality fruit to continue during the 2001 season; and (3) revise varietal maturity, quality, and size requirements to reflect recent changes in growing conditions.

This rule continues in effect the lot stamping requirements for returnable plastic containers under the marketing orders' rules and regulations that were in effect for such containers during the 2000 season for nectarine and peach shipments. The modified requirements of §§ 916.115 and 917.150 mandated that the lot stamp numbers be printed on a USDA-approved pallet tag, in addition to the requirement that the lot stamp number be applied to the cards on all exposed or outside containers, and not less than 75 percent of the total containers on a pallet. Such requirements are continued in effect for the 2001 season, and would help the inspection service safeguard the identity of inspected and certified containers of nectarines and peaches, and help the industry by keeping in place the information necessary to facilitate their ''trace-back'' program.

The Returnable Plastic Container Task Force and Grade and Size Subcommittee considered possible alternatives to this action. They discussed the availability of a new container style with a specific area on the principal display panel for placement of the cards, but were not assured by container manufacturers that all containers would have such a display area. Also, in the absence of an adhesive to secure the cards, the display area would not meet the requirements of the committees or the inspection service. Such alternatives were, thus, rejected.

For these reasons, the task force and subcommittee recommended to the committees, and the committees voted unanimously, to extend the requirement for the lot stamp number to be provided on the cards on each container and for each pallet to be marked with a USDA-approved pallet tag, also containing the lot stamp number. Such safeguards will continue to ensure that all the containers on each pallet had been inspected and certified in the event a card on an individual container or containers is removed, misplaced, or lost.

In 1996, §§ 916.350 and 917.442 were revised to permit shipments of ''CA Utility'' quality nectarines and peaches as an experiment during the 1996 season only. Since that time, shipments of ''CA Utility'' have ranged from 1 to 4 percent of total nectarine and peach shipments. This rule continues in effect the authorization for continued shipments of ''CA Utility'' quality nectarines and peaches during the 2001 season.

The Grade and Size Subcommittee considered one alternative to this action. They considered not authorizing continued shipments of ''CA Utility'' quality nectarines and peaches. However, shipments of ''CA Utility'' quality fruit are holding steady or increasing in volume since 1996. Also, some handlers note, that the availability of ''CA Utility'' gives handlers the flexibility to remove marginal fruit from their U.S. No. 1 containers, thus, making the contents of their U.S. No. 1 containers better. Based upon these considerations, this alternative was rejected.

Continued availability of ''CA Utility'' quality fruit is expected to have a positive impact on producers, handlers, and consumers by permitting more nectarines and peaches to be shipped into fresh market channels without adversely impacting the market for higher-quality fruit.

Sections 916.356 and 917.459 establish minimum maturity levels. This rule continues in effect the annual adjustments to the maturity requirements for several varieties of nectarines and peaches. Maturity requirements are based on maturity measurements generally using maturity guides (e.g. color chips), as recommended by SPI. Such maturity guides are reviewed annually by SPI to determine the appropriate guide for each nectarine and peach variety. These annual adjustments reflect changes in the maturity characteristics of nectarines and peaches as experienced over the previous season's inspections. Adjustments in the guides ensure that fruit has met an acceptable level of maturity, ensuring consumer satisfaction while benefiting nectarine and peach producers and handlers.

Currently, in § 916.356 of the nectarine order's rules and regulations, and in § 917.459 of the peach order's rules and regulations, minimum sizes for various varieties of nectarines and peaches, respectively, are established. This rule continues in effect the adjustments to the minimum sizes authorized for various varieties of nectarines and peaches for the 2001 season. Minimum size regulations are put in place to encourage producers to leave fruit on the trees for a longer period of time. This increased growing time not only improves maturity, but also increases fruit size. Increased fruit size increases the number of packed containers per acre; and coupled with heightened maturity levels, also provides greater consumer satisfaction, fostering repeat purchases. Such improved consumer satisfaction and repeat purchases benefit both producers and handlers alike. Such adjustments to minimum sizes of nectarines and peaches are recommended by the NAC and PCC based upon historical data, producer and handler information regarding sizes attained by different varieties, and trends in consumer purchases.

An alternative to such actions would include not establishing lot stamping, grade, size, and maturity regulations for nectarines and peaches. Such an action, however, would be a significant departure from the committees' practices, would ultimately increase the amount of less acceptable fruit being marketed to consumers, and, thus, would be contrary to the long-term

interests of producers, handlers, and consumers. For these reasons, this alternative is not appropriate.

The committees made recommendations regarding all the revisions in handling and lot stamping requirements after considering all available information, including comments of persons at several subcommittee meetings and comments received by committee staff. Such subcommittees include the Grade and Size Subcommittee, the Inspection and Compliance Subcommittee, the Returnable Plastic Container Task Force, and the Management Services Committee.

At the meetings, the impact of and alternatives to these recommendations were deliberated. These subcommittees and the task force, like the committees themselves, frequently consist of individual producers (and handlers, where authorized) with many years' experience in the industry who are familiar with industry practices. Like all committee meetings, subcommittee meetings are open to the public and comments are widely solicited.

This rule does not impose any additional reporting and recordkeeping requirements on either small or large handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

Additionally, as noted in the initial regulatory flexibility analysis, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. However, as previously stated, nectarines and peaches under the orders have to meet certain requirements set forth in the standards issued under the Agricultural Marketing Act of 1946 (7 CFR 1621 *et seq*). Standards issued under the Agricultural Marketing Act of 1946 are otherwise voluntary.

In addition, the committees' meetings are widely publicized through the nectarine and peach industries and all interested parties are encouraged to attend and participate in committee deliberations on all issues. These meetings are held annually during the last week of November or first week of December. Like all committee meetings, the December 5, 2000, meetings were public meetings, and all entities, large and small, were encouraged to express views on these issues. Further, various subcommittee meetings were held prior to the December 5 meeting in which these regulations were reviewed and discussed.

An interim final rule concerning this action was published in the **Federal Register** on April 2, 2001 (66 FR 17479). Copies of the rule were provided to all committee members, and nectarine and peach handlers by the committees' staff. In addition, the rule was made available through the Internet by the Office of the Federal Register. That rule provided for a 60-day comment period, which ended June 1, 2001. One comment was received.

The commenter requested several clarifications to the interim final rule. One clarification dealt with the spelling of two nectarine varieties currently referred to as ''Prima Diamond 13'' and ''Brite Pearl.'' According to the commenter, ''Prima Diamond 13'' should be corrected to read ''Prima Diamond XIII,'' and ''Brite Pearl'' should be corrected to read ''Bright Pearl.''

The commenter also noted that the name of the nectarine variety referred to as ''Super Star'' should be corrected to read ''Sunecteight.'' Further, the commenter noted, the trademarked name ''Super Star'' should appear in parentheses after the varietal name ''Sunecteight'' in the regulations. The current maturity assignment for the Super Star variety will be applied to ''Sunecteight (Super Star).''

The commenter also advised that the name of the peach variety currently referred to as ''Amber Crest'' should be corrected to read ''Supechfour.'' The commenter also requested that the trademarked name, ''Amber Crest,'' should appear in parentheses after the varietal name ''Supechfour'' in the regulations. The current maturity assignment for the Amber Crest variety will be applied to ''Supechfour (Amber Crest).''

Accordingly, appropriate changes are made based upon the comment received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following website: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matters presented, the information and recommendations submitted by the committees, and other information, it is found that finalizing the interim final rule, with appropriate changes, as published in the **Federal Register** (66 FR 17479, April 2, 2001), will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because: (1) Handlers are already shipping California nectarines and peaches from the 2001 crop, and the varietal name corrections should be in place for the season: (2) handlers are already aware of this rule, which was unanimously recommended at a public meeting; and (3) a 60-day comment period was provided for in the interim final rule.

**List of Subjects**

*7 CFR Part 916*

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

*7 CFR Part 917*

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

Accordingly, the interim final rule amending 7 CFR parts 916 and 917, which was published at 66 FR 17479 on April 2, 2001, is adopted as a final rule with the following changes:

1. The authority citation for 7 CFR parts 916 and 917 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

## PART 916—NECTARINES GROWN IN CALIFORNIA

### § 916.356 [Amended]

2. Section 916.356, TABLE 1 of paragraph (a)(1)(iv), is amended by removing the words ''Super Star * * * * * * G'' and adding the words ''Sunecteight (Super Star)'' with a ''G'' maturity guide, between the words ''Sun Diamond'' and ''Sun Grand.''

3. Section 916.356, paragraph (a)(4), is amended by revising the words ''Prima Diamond 13'' to read ''Prima Diamond XIII.''

4. Section 916.356, paragraph (a)(6), is amended by revising the words ''Brite Pearl'' to read ''Bright Pearl;'' by removing the words ''Super Star;'' and by adding the words ''Sunecteight (Super Star)'' between the words ''Sun Diamond'' and ''Sunny Red.''

## PART 917—FRESH PEARS AND PEACHES GROWN IN CALIFORNIA

### § 917.459 [Amended]

5. Section 917.459, TABLE 1 of paragraph (a)(1)(iv), is amended by removing the words ''Amber Crest * * * * * * G'' and by adding the words ''Supechfour (Amber Crest)'' with

a ''G'' maturity guide, between the words ''Suncrest'' and ''Sweet Scarlet.''

6. Section 917.459, paragraph (a)(6) is amended by removing the words ''Amber Crest'' and adding the words ''Supechfour (Amber Crest)'' between the words ''Summer Zee'' and ''Sweet Dream.''

Dated: July 26, 2001.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 01–19099 Filed 7–31–01; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 959

**[Docket No. FV01–959–1 FIR]**

### Onions Grown in South Texas; Decreased Assessment Rate

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting, as a final rule, without change, an interim final rule which decreased the assessment rate established for the South Texas Onion Committee (Committee) for the 2000–2001 and subsequent fiscal periods from $0.04 to $0.03 per 50-pound container or equivalent of onions handled. The Committee locally administers the marketing order which regulates the handling of onions grown in South Texas. Authorization to assess onion handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began on August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**EFFECTIVE DATE:** August 31, 2001.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Cavazos, Marketing Assistant, McAllen Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1313 E. Hackberry, McAllen, Texas 78501; telephone: (956) 682–2833, Fax: (956) 682–5942; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov.*

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR part 959), regulating the handling of onions grown in South Texas, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, South Texas onion handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable onions beginning August 1, 2000, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule continues to decrease the assessment rate established for the Committee for the 2000–2001 and subsequent fiscal periods from $0.04 to $0.03 per 50-pound container or equivalent of onions handled.

The South Texas onion marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of South Texas onions. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1999–2000 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee, in a mail vote, unanimously recommended 2000–2001 expenses of $142,000 for personnel, office, compliance, and partial promotion expenses. These expenses were approved on July 31, 2000. The assessment rate and specific funding for research and promotion projects were to be recommended at a later Committee meeting.

The Committee subsequently met on December 27, 2000, and unanimously recommended 2000–2001 expenditures of $306,740 and an assessment rate of $0.03 per 50-pound container of onions. In comparison, last year's budgeted expenditures were $301,000. The assessment rate of $0.03 is $0.01 lower than the rate previously in effect. The Committee voted to lower its assessment rate to reduce handler costs by about $75,000 ($0.01 assessment rate reduction X 7,500,000 containers of assessable onions), and because the Committee believes the projected reserve on July 31, 2001 ($279,814), would be higher than needed to administer the program.

The Committee recently entered into an agreement with the Texas Produce Association (Association) for management services. The Association also manages the Texas citrus and melon administrative committees (7 CFR parts 906 and 979) and several other State marketing organizations. The sharing of costs (staff, office space, and equipment) is expected to foster economy and efficiency. Each organization's share of the costs is based

upon the amount of work performed and time devoted to its activities.

The major expenditures recommended by the Committee for the 2000–2001 fiscal period include $117,544 for administrative expenses, $27,496 for compliance, $39,500 for promotion, and $122,200 for research projects. Budgeted expenses for these items in 1999–2000 were $97,200, $34,800, $36,000, and $133,000, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of South Texas onions. Onion shipments for the year are estimated at 7.5 million 50-pound equivalents, which should provide $225,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve (currently $346,554) will be kept within the maximum permitted by the order (approximately two fiscal periods' expenses, § 959.43).

The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2000–2001 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

**Final Regulatory Flexibility Analysis**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 82 producers of onions in South Texas and approximately 34 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Most of the handlers are vertically integrated corporations involved in producing, shipping, and marketing onions. For the 1999–2000 marketing year, the industry's 34 handlers shipped onions produced on 15,867 acres with the average and median volume handled being 168,387 and 139,237 fifty-pound bag equivalents, respectively. In terms of production value, total revenues for the 34 handlers were estimated to be $48.7 million, with average and median revenues being $1.4 million and $1.2 million, respectively.

The South Texas onion industry is characterized by producers and handlers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of onions. Alternative crops provide an opportunity to utilize many of the same facilities and equipment not in use when the onion production season is complete. For this reason, typical onion producers and handlers either produce multiple crops or alternate crops within a single year.

Based on the SBA's definition of small entities, the Committee estimates that all the 34 handlers regulated by the order would be considered small entities if only their spring onion revenues are considered. However, revenues from other productive enterprises would likely push a large number of these handlers above the $5,000,000 annual receipt threshold. All of the 82 producers may be classified as small entities based on the SBA definition if only their revenue from spring onions is considered. When revenues from all sources are considered, a majority of the producers would not be considered small entities because receipts would exceed $500,000.

This rule continues to decrease the assessment rate established for the Committee and collected from handlers for the 2000–2001 and subsequent fiscal periods from $0.04 to $0.03 per 50-pound container or equivalent of onions. The Committee unanimously recommended 2000–2001 expenditures of $306,740 and an assessment rate of $0.03 per 50-pound container or equivalent. The assessment rate of $0.03 is $0.01 lower than the 1999–2000 rate. The quantity of assessable onions for the 2000–2001 fiscal period is estimated at 7.5 million 50-pound containers or equivalents.

The Committee recently entered into an agreement with the Texas Produce Association (Association) for management services. The Association also manages the Texas citrus and melon administrative committees (7 CFR parts 906 and 979) and several other State marketing organizations. The sharing of costs (staff, office space, and equipment) is expected to foster economy and efficiency. Each organization's share of the costs is based upon the amount of work performed and time devoted to its activities. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2000–2001 fiscal period include $117,544 for administrative expenses, $27,496 for compliance, $39,500 for promotion, and $122,200 for research projects. Budgeted expenses for these items in 1999–2000 were $97,200, $34,800, $36,000, and $133,000, respectively.

The Committee voted to lower its assessment rate to lower handler costs by about $75,000 and because the Committee believes the projected reserve on July 31, 2001 ($279,814), would be higher than needed to administer the program.

The Committee reviewed and unanimously recommended 2000–2001 expenditures of $306,739, which included increases in administrative and office salaries, and research programs. Prior to arriving at this budget, the Committee considered information from various sources, including the Committee's Executive Committee, the Research Subcommittee, and the Market Development Subcommittee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various research projects to the onion industry. The assessment rate of $0.03 per 50-pound equivalent of assessable onions

was then determined by dividing the total recommended budget by the quantity of assessable onions, estimated at 7.5 million 50-pound equivalents for the 2000–2001 fiscal period. This is approximately $81,740 below the anticipated expenses, which the Committee determined to be acceptable.

A review of historical information and preliminary information pertaining to the 2000–2001 fiscal period indicates that the grower price for the 2000–2001 marketing season could range between $7.00 and $12.00 per 50-pound equivalent of onions. Therefore, the estimated assessment revenue for the 2000–2001 fiscal period as a percentage of total grower revenue could range between .43 and .25 percent.

This action continues to decrease the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the South Texas onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the December 27, 2000, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action imposes no additional reporting or recordkeeping requirements on either small or large South Texas onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

An interim final rule concerning this action was published in the **Federal Register** on March 27, 2001 (66 FR 16594). The interim final rule was made available through the Internet by the Office of the Federal Register. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on May 29, 2001, and no comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

**List of Subjects in 7 CFR Part 959**

Marketing agreements, Onions, Reporting and recordkeeping requirements.

## PART 959—ONIONS GROWN IN SOUTH TEXAS

Accordingly, the interim final rule amending 7 CFR part 959 which was published at 66 FR 16594 on March 27, 2001, is adopted as a final rule without change.

Dated: July 26, 2001.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 01–19098 Filed 7–31–01; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 989

**[Docket No. FV01–989–3 IFR]**

## Raisins Produced From Grapes Grown in California; Final Free and Reserve Percentages for 2000–01 Crop Natural (Sun-Dried) Seedless and Zante Currant Raisins

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim final rule with respect for comments.

**SUMMARY:** This rule establishes final volume regulation percentages for 2000–01 crop Natural (sun-dried) Seedless raisins (Naturals) and Zante Currant raisins (Zantes) covered under the Federal marketing order for California raisins (order). The order regulates the handling of raisins produced from grapes grown in California and is locally administered by the Raisin Administrative Committee (Committee). The volume regulation percentages are 53 percent free and 47 percent reserve for Naturals, and 83 percent free and 17 percent reserve for Zantes. The percentages are intended to help stabilize raisin supplies and prices, and strengthen market conditions.

**DATES:** *Effective date:* August 2, 2001. Comments received by August 31, 2001 will be considered prior to issuance of a final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–8938, or E-mail: *moab.docket clerk@usda.gov.* All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html.*

**FOR FURTHER INFORMATION CONTACT:** Maureen T. Pello, Senior Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov*.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the order provisions now in effect, final free and reserve percentages may be established for raisins acquired by handlers during the

crop year. This rule establishes final free and reserve percentages for naturals and Zantes for the 2000–01 crop year, which began August 1, 2000, and ends July 31, 2001. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule establishes final volume regulation percentages for 2000–01 crop Naturals and Zantes covered under the order. The volume regulation percentages are 53 percent free and 47 percent reserve for Naturals and 83 percent free and 17 percent reserve for Zantes. Free tonnage raisins may be sold by handlers to any market. Reserve raisins must be held in a pool for the account of the Committee and are disposed of through various programs authorized under the order. For example, reserve raisins may be sold by the Committee to handlers for free use or to replace part of the free tonnage raisins they exported; used in diversion programs; carried over as a hedge against a short crop; or disposed of in other outlets not competitive with those for free tonnage raisins, such as government purchase, distilleries, or animal feed.

The volume regulation percentages are intended to help stabilize raisin supplies and prices, and strengthen market conditions. Final percentages were unanimously recommended by the Committee on January 12, 2001.

**Computation of Trade Demands**

Section 989.54 of the order prescribes procedures and time frames to be followed in establishing volume regulation. This includes methodology used to calculate percentages. Pursuant to § 989.54(a) of the order, the Committee met on August 15, 2000, to review shipment and inventory data, and other matters relating to the supplies of raisins of all varietal types. The Committee computed a trade demand for each varietal type for which a free tonnage percentage might be recommended. Trade demand is computed using a formula specified in the order and, for each varietal type, is equal to 90 percent of the prior year's shipments of free tonnage and reserve tonnage raisins sold for free use into all market outlets, adjusted by subtracting the carryin on August 1 of the current crop year, and adding the desirable carryout at the end of that crop year. As specified in § 989.154(a), the desirable carryout for each varietal type is equal to a 5-year rolling average, dropping the high and low figures, of free tonnage shipments during the months of August, September, and October. In accordance with these provisions, the Committee computed and announced 2000–01 trade demands for Naturals and Zantes at 233,344 tons and 4,290 tons, respectively, as shown below.

COMPUTED TRADE DEMANDS

[Natural condition tons]

| | Naturals | Zantes |
|---|---|---|
| Prior year's shipments | 264,619 | 4,635 |
| Multiplied by 90 percent | 0.90 | 0.90 |
| Equals adjusted base | 238,157 | 4,172 |
| Minus carryin inventory | 97,109 | 1,109 |
| Plus desirable carryout | 92,296 | 1,227 |
| Equals computed trade demand | 233,344 | 4,290 |

**Computation of Preliminary Volume Regulation Percentages**

As required under § 989.54(b) of the order, the Committee met on October 4, 2000, and announced a preliminary crop estimate of 427,394 tons for Naturals. Naturals are the major varietal type of California raisin. This estimate was about 27 percent higher than the 10-year average of 336,766 tons. Combining the carrying inventory of 97,109 with the 427,394-ton crop estimate resulted in a total available supply of 524,503 tons, which was significantly higher (about 125 percent) than the 233,344-ton trade demand. Thus, the Committee determined that volume regulation for Naturals was warranted. The Committee announced preliminary free and reserve percentages for Naturals which released 65 percent of the computed trade demand since the field price (price paid by handlers to producers for their free tonnage raisins) had not yet been established. The preliminary percentages were 35 percent free and 65 percent reserve.

Also at its October 4, 2000, meeting, the Committee announced a preliminary crop estimate for Zantes at 4,828 tons, which is comparable to the 10-year average of 4,447 tons. Combining the carry-in inventory of 1,109 tons with the 4,828-ton crop estimate resulted in a total available supply of 5,937 tons. With the estimated supply about 38 percent greater than the 4,290-ton trade demand, the Committee determined that volume regulation for Zantes was warranted. The Committee announced preliminary percentages for Zantes which released 65 percent of the computed trade demand since field price had not yet been established. The preliminary percentages were 58 percent free and 42 percent reserve.

In addition, preliminary percentages were also announced for Dipped Seedless and Other Seedless raisins. The Committee ultimately determined that volume regulation was only warranted for Naturals and Zantes. As in past seasons, the Committee submitted its marketing policy to the Department for review.

**Computation of Final Volume Regulation Percentages**

Pursuant to § 989.54(c) and (d) of the order, the Committee met on January 12, 2001, and recommended interium percentages for Naturals and Zantes to release slightly less than their full trade demands. Specifically, interim percentages were recommended for Naturals at 52.75 percent free and 47.25

percent reserve, and for Zantes at 82.75 percent free and 17.25 percent reserve.

The Department reviewed the Committee's recommendation for interim percentages in light of unusual circumstances facing the industry this season. Field prices for Naturals and Zantes are negotiated between the Raisin Bargaining Association (RBA) and handlers, and are usually set in October. For the first time ever, price negotiations proceeded to arbitration, a process that occurred between April 30–May 2, 2001. The Committee's rationale for recommending interim percentages in January, prior to the establishment of field prices, was that the industry was proceeding to binding arbitration, and that field prices would be set through this process.

In reviewing the Committee's recommendation regarding interim percentages, the Department considered the fact that volume regulation under the order is linked to the establishment of field prices. Preliminary percentages release 85 percent of the trade demand if field prices have been set, but only 65 percent if they have not. The order also permits preliminary and interim percentages to be implemented through announcements by the Committee, but final percentages must be established by the Department through informal rulemaking.

While preliminary percentages were designed to release 65 percent of the trade demand until field price is set, the order does not contemplate and provides no contingency for the failure to set prices by mid-February. The rulemaking record indicates that the quantity of tonnage released at the 65-percent level would be sufficient to supply market needs through February, but does not address restrictions after February 15. The Department does not support marketing order regulations that restrict supplies to the point where market needs are not met. This would negatively hurt the industry as a whole. Thus, on March 15, 2001, the Department approved the establishment of interim percentages for Naturals and Zantes.

At its January 2001 meeting, the Committee also recommended final percentages to release the full trade demands for Naturals and Zantes, once field prices were set through arbitration. Field prices were established on May 2, 2001. Final percentages compute to 53 percent free and 47 percent reserve for Naturals, and 83 percent free and 17 percent reserve for Zantes.

Both the interim and final percentage computations were based on revised crop estimates of 440,000 tons for Naturals and 5,160 tons for Zantes. The Committee's calculations to arrive at final percentages for Naturals and Zantes are shown in the table below:

FINAL VOLUME REGULATION PERCENTAGES

[Natural condition tons]

| | Naturals | Zantes |
|---|---|---|
| Trade demand | 233,344 | 4,290 |
| Divided by crop estimate | 440,000 | 5,160 |
| Equals free percentage | 53 | 83 |
| 100 minus free percentage equals reserve percentage | 47 | 17 |

In addition, the Department's ''Guidelines for Fruity, Vegetable, and Specialty Crop Marketing Orders'' (Guidelines) specify that 110 percent of recent years' sales should be made available to primary markets each season for marketing orders utilizing reserve pool authority. This goal will be met for Naturals and Zantes by the establishment of final percentages which release 100 percent of the trade demand and the offer of additional reserve raisins for sale to handlers under the ''10 plus 10 offers.'' As specified in § 989.54(g), the 10 plus 10 offers are two offers of reserve pool raisins which are made available to handlers during each season. For each such offer, a quantity of reserve raising equal to 10 percent of the prior year's shipments is made available for free use. Handlers may sell their 10 plus 10 raisins to any market.

The ''10 plus 10 offers'' were held for both Naturals and Zantes in May 2001. For Naturals, a total of 52,924 tons was made available to raisin handlers. Adding the 52,924 tons of 10 plus 10 raisins to the 233,344-ton trade demand figure, plus 97,109 tons of 1999–2000 carryin inventory, equates to about 383,377 tons of natural condition raisins, or about 359,190 tons of packed raisins, that were made available for free use, or to the primary market. This is 145 percent of the quantity of Naturals shipped during the 1999–2000 crop year (264,619 natural condition tons or 247,925 packed tons).

For Zantes, about 820 tons were made available to handlers through 10 plus 10 offers. This quantity is less than the amount specified in the order (927 tons). Although 927 tons were not available, all of the reserve raisins available were offered to handlers for free use through the 10 plus 10 offers. Adding the 820-tons of 10 plus 10 raisins to the 4,290-ton trade demand figure, plus 1,109 tons of 1999–2000 carryin inventory equates to 6,219 tons natural condition raisins, or about 5,540 tons of packed raisins, that were made available for free use, or to primary markets. This is 134 percent of the quantity of Zantes shipped during the 1999–2000 crop year (4,635 tons natural condition tons or 4,129 tons packed tons).

In addition to the 10 plus 10 offers, § 989.67(j) of the order provides authority for sales of reserve raisins to handlers under certain conditions such as a national emergency, crop failure, change in economic or marketing conditions, or if free tonnage shipments in the current crop year exceed shipments of a comparable period of the prior crop year. Such reserve raisins may be sold by handlers to any market. When implemented, the additional offers of reserve raisins make even more raisins available to primary markets which is consistent with the Department's Guidelines.

**Initial Regulatory Flexibility Analysis**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 20 handlers of California raisins who are subject to regulation under the order and

approximately 4,500 raisin producers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. Thirteen of the 20 handlers subject to regulation have annual sales estimated to be at least $5,000,000, and the remaining 7 handlers have sales less than $5,000,000, excluding receipts from any other sources. No more than 7 handlers, and a majority of producers, of California raisins may be classified as small entities, excluding receipts from other sources.

Since 1949, the California raisin industry has operated under a Federal marketing order. The order contains authority to, among other things, limit the portion of a given year's crop that can be marketed freely in any outlet by raisin handlers. This volume control mechanism is used to stabilize supplies and prices and strengthen market conditions.

Pursuant to § 989.54(d) of the order, this rule establishes final volume regulation percentages for 2000–1 crop Natural and Zante raisins. The volume regulation percentages are 53 percent free and 47 percent reserve for Naturals and 83 percent free and 17 percent reserve for Zantes. Free tonnage raisins may be sold by handlers to any market. Reserve raisins must be held in a pool for the account of the Committee and are disposed of through certain programs authorized under the order.

Volume regulation is warranted this season for Naturals because the final crop estimate of 440,000 tons combined with the carryin inventory of 97,109 tons, plus 45,275 tons of reserve raisins released to-date for free use through an export program, results in a total available supply of 582,384 tons, which is about 150 percent higher than the 233,344-ton trade demand. Volume regulation is warranted for Zantes this season because the crop estimate of 5,160 tons combined with the carryin inventory of 1,109 tons results in a total available supply of 6,269 tons, which is about 46 percent higher than the 4,290-ton trade demand.

Many years of marketing experience led to the development of the current volume regulation procedures. These procedures have helped the industry address its marketing problems by keeping supplies in balance with domestic and export market needs, and strengthening market conditions. The current volume regulation procedures fully supply the domestic and export markets, provide for market expansion, and help prevent oversupplies in the domestic market.

Raisin grapes are a perennial crop, so production in any year in dependent upon plantings made in earlier years. The sun-drying method of producing raisins involves considerable risk because of variable weather patterns.

Even though the product and the industry are viewed as mature, the industry has experienced considerable change over the last several decades. Before the 1975–76 crop year, more than 50 percent of the raisins were packed and sold directly to consumers. Now, over 60 percent of raisins are sold in bulk. This means the raisins are now sold to consumers mostly as an ingredient in another product such as cereal and baked goods. In addition, for a few years in the early 1970's, over 50 percent of the raisin grapes were sold to the wine market for crushing. Since then, the percent of raisin-variety grapes sold to the wine industry has decreased.

California's grapes are classified into three groups—table grapes, wine grapes, and raisin-variety grapes. Raisin-variety grapes are the most versatile of the three types. They can be marketed as fresh grapes, crushed for juice in the production of wine or juice concentrate, or dried into raisins. Annual fluctuations in the fresh grape, wine, and concentrate markets, as well as weather-related factors, cause fluctuations in raisin supply. This type of situation introduces a certain amount of variability into the raisin market. Although the size of the crop for raisin-variety grapes may be known, the amount dried for raisins depends on the demand for crushing. This makes the marketing of raisins a more difficult task. These supply fluctuations can result in producer price instability and disorderly market conditions.

Volume regulation is helpful to the raisin industry because it lessens the impact of such fluctuations and contributes to orderly marketing. For example, producer prices for Naturals have remained fairly steady between the 1992–93 through the 1997–98 seasons, although production has varied. As shown in the table below, during those years, production varied from a low of 272,063 tons in 1996–97 to a high of 387,007 tons in 1993–94, or about 42 percent. According to Committee data, the total producer return per ton during those years, which includes proceeds from both free tonnage plus reserve pool raisins, has varied from a low of $901 in 1992–93 to a high of $1,049 in 1996–97, or 16 percent. Total producer prices for the past two seasons, 1998–99 and 1999–2000, increased significantly due to back-to-back short crops during those years.

NATURAL SEEDLESS PRODUCER PRICES

| Crop year | Production (natural condition tons) | Producer prices |
|---|---|---|
| 1999–2000 | 299,910 | [1]$1,211.25 |
| 1998–99 | 240,469 | [2]1,290,00 |
| 1997–98 | 382,448 | 946.52 |
| 1996–97 | 272,063 | 1,049.20 |
| 1995–96 | 325,911 | 1,007.19 |
| 1994–95 | 378,427 | 928.27 |
| 1993–94 | 387,007 | 904.60 |
| 1992–93 | 371,516 | 901.41 |

[1] Return to date, reserve pool still open.
[2] No volume regulation.

There are essentially two broad markets for raisins—domestic and export. In recent years, both export and domestic shipments have been decreasing. Domestic shipments decreased from a high of 204,805 packed tons during the 1990–91 crop year to a low of 156,325 packed tons in 1999–2000. In addition, exports decreased from 114,576 packed tons in 1991–92 to 91,599 packed tons in the 1999–2000 crop year.

In addition, the per capita consumption of raisins has declined from 2.07 pounds in 1988 to 1.62 pounds in 1999. This decrease is consistent with the prices in the per capita consumption of dried fruits in general, which is due to the increasing availability of most types of fresh fruit through out the year.

While the overall demand for raisins has been decreasing (as reflected in decline in commercial shipments), production has been increasing. The production of dried raisins reached an all-time high of an estimated 440,000 tons in the 2000–01 crop year. This large crop was preceded by two short crop years; production was 240,469 tons in 1998–99 and 299,910 tons in 1999–2000. Production for the 2000–01 crop year soared to a record level because of increased bearing acreage and yields.

The order permits the industry to exercise supply control provisions, which allow for the establishment of free and reserve percentages, and establishment of a reserve pool. One of the primary purposes of establishing free and reserve percentages is to equilibrate supply and demand. If raisin markets are over-supplied with product, grower prices will decline.

Raisins are generally marketed at relatively lower price levels in the more elastic export market than in the more inelastic domestic market. This results in a larger volume of raisins being marketed and enhances grower returns. In addition, this system allows the U.S. raisin industry to be more competitive in export markets.

To assess the impact that volume control has on the prices growers receive for their product, an econometric model has been constructed. The model developed is for the purpose of estimating nominal prices under a number of scenarios using the volume control authority under the Federal marketing order. The price growers receive for the harvest and delivery of their crop is largely determined by the level of production and the volume of carryin inventories. The Federal marketing order permits the industry to exercise supply control provisions, which allow for the establishment of reserve and free percentages for primary markets, and a reserve pool. The establishment of reserve percentages impacts the production that is marketed in the primary markets.

The reserve percentage limits what handlers can market as free tonnage. Assuming the 47 percent reserve limits the total free tonnage to 233,200 natural condition tons (.53 x 440,000 tons) and carryin is 97,109 natural condition tons, and purchases from reserve total 55,000 natural condition tons (which includes anticipated reserve raisins released through the export program and other purchases), then the total free supply is estimated at 385,309 natural condition tons. The econometric model estimates prices to be $240 per ton higher than under an unregulated scenario. This price increase is beneficial to all growers regardless of size and enhances growers' total revenues in comparison to no volume control. Establishing a reserve allows the industry to help stabilize supplies in both domestic and export markets, while improving returns to producers.

Regarding Zantes, Zante production is much smaller than that of Naturals. Volume regulation has been implemented for Zantes during the 1994–95, 1995–96, 1997–98, 1998–99, 1999–2000, and 2000–01 seasons. Various programs to utilize reserve pool Zantes were implemented during those years. As shown in the table below, although production varied during those years, volume regulation helped to reduce inventories, and helped to strengthen total producer prices (free tonnage plus reserve Zantes) from $412.56 per ton in 1994–95 to a high of $1,034.03 per ton in 1998–99. The Committee is implementing an export program for Zantes, in addition to Naturals. Through this program, the Committee plans to continue to manage its Zante supply, build and maintain export markets, and ultimately improve producer returns. Volume regulation helps the industry not only to manage oversupplies of raisins, but also maintain market stability.

ZANTE CURRANT INVENTORIES AND PRODUCER PRICES DURING YEARS OF VOLUME REGULATION

[Natural condition tons]

| Crop year | Production | Inventory | | Total season average producer price (per ton) |
|---|---|---|---|---|
| | | Desirable | Physical | |
| 1999–2000 | 3,683 | 573 | 1,906 | [1] $612.00 |
| 1998–99 | 3,880 | 694 | 1,188 | $1,034.03 |
| 1997–98 | 4,826 | 788 | 1,679 | $710.08 |
| 1996–97 | 4,491 | 987 | 549 | [2] $1,150.00 |
| 1995–96 | 3,294 | 782 | 2,890 | $711.32 |
| 1994–95 | 5,377 | 837 | 4,364 | $412.56 |

[1] Return to date, reserve pool open.
[2] No volume regulation.

Free and reserve percentages are established by varietal type, and usually in years when the supply exceeds the trade demand by a large enough margin that the Committee believes volume regulation is necessary to maintain market stability. Accordingly, in assessing whether to apply volume regulation or, as an alternative, not to apply such regulation, the Committee recommended only two of the nine raisin varietal types defined under the order for volume regulation this season.

The free and reserve percentages established by this rule release the full trade demands and apply uniformly to all handlers in the industry, regardless of size. For Naturals, with the exception of the 1998–99 crop year, small and large raisin producers and handlers have been operating under volume regulation percentages every year since 1983–84. There are no known additional costs incurred by small handlers that are not incurred by large handlers. While the level of benefits of this rulemaking are difficult to quantify, the stabilizing effects of the volume regulations impact small and large handlers positively by helping them maintain and expand markets even though raisin supplies fluctuate widely from season to season. Likewise, price stability positively impacts small and large producers by allowing them to better anticipate the revenues their raisins will generate.

There are some reporting, recordkeeping and other compliance requirements under the order. The

reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data for maintenance of the program. The requirements are the same as those applied in past seasons. Thus, this action will not impose any additional reporting or recordkeeping burdens on either small or large handlers. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. The information collection and recordkeeping requirements have been previously approved by the Office of Management and Budget (OMB) under OMB Control No. 0581–0178. As with other similar marketing order programs, reports and forms are periodically studied to reduce or eliminate duplicate information collection burdens by industry and public sector agencies. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. Finally, interested persons are invited to submit information on the regulatory and informational impact of this action on small businesses.

Further, Committee and subcommittee meetings are widely publicized in advance and are held in a location central to the production area. The meetings are open to all industry members, including small business entities, and other interested persons who are encouraged to participate in the deliberations and voice their opinions on topics under discussion.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

This rule invites comments for a 30-day period on the establishment of final volume regulation percentages for 2000–01 crop Natural and Zante raisins covered under the order. Thirty days is deemed appropriate because handlers are currently marketing their 2000–01 crop Natural and Zante raisins and this action should be taken promptly to achieve the intended purpose of making the full trade demands available to handlers. All comments received within the comment period will be considered prior to finalization of this rule.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The relevant provisions of this part require that the percentages designated herein for the 2000–01 crop year apply to all Natural and Zante raisins acquired from the beginning of that crop year; (2) handlers are currently marketing their 2000–01 crop Natural and Zante raisins and this action should be taken promptly to achieve the intended purpose of making the full trade demands available to handlers; (3) handlers are aware of this action, which was unanimously recommended at a public meeting, and need no additional time to comply with these percentages; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this rule.

**List of Subjects in 7 CFR Part 989**

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 989 is amended to read as followed:

## PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 989.254 is added to Subpart—Supplementary Regulations to read as follows:

**Note:** This section will not appear in the annual Code of Federal Regulations.

### § 989.254 Final free and reserve percentages for the 2000–01 crop year.

The final percentages for standard Natural (sun-dried) Seedless and Zante Currant raisins acquired by handlers during the crop year beginning on August 1, 2000, which shall be free tonnage and reserve tonnage, respectively, are designated as follows:

| Varietal type | Free percentage | Reserve percentage |
|---|---|---|
| Natural (sun-dried) Seedless | 53 | 47 |
| Zante Currant | 83 | 17 |

Dated: July 27, 2001.

**Barry L. Carpenter,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 01–19263 Filed 7–30–01; 10:06 am]

**BILLING CODE 3410–02–M**

## DEPARTMENT OF AGRICULTURE

## Animal and Plant Health Inspection Service

## 9 CFR Part 130

**[Docket No. 99–060–2]**

## Veterinary Services User Fees; Fees for Permit Applications

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the user fees for processing applications for permits to import and transport certain animal products, organisms, vectors, and germ plasm. We are also establishing new user fees that would pay the cost of processing applications to import live animals. We are taking this action in order to ensure that we recover our costs.

**EFFECTIVE DATE:** August 31, 2001.

**FOR FURTHER INFORMATION CONTACT:** For information concerning program operations for Veterinary Services, contact Ms. Inez Hockaday, Acting Director, Management Support Staff, VS, APHIS, 4700 River Road Unit 44,

Riverdale, MD 20737–1231; (301) 734–7517.

For information concerning rate development of the amended user fees, contact Mrs. Kris Caraher, Accountant, Financial Systems and Services Branch, Financial Management Division, MRPBS, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737–1232; (301) 734–8351.

**SUPPLEMENTARY INFORMATION:**

## Background

User fees to reimburse the Animal and Plant Health Inspection Service (APHIS) for the costs of providing veterinary diagnostic services and import-and export-related services for live animals and birds and animal products are contained in 9 CFR part 130. Section 130.8 lists miscellaneous flat rate user fees.

On November 13, 2000, we published in the **Federal Register** (65 FR 67657–67663, Docket No. 99–060–1) a proposal to amend existing user fees for processing applications for permits to import and transport certain animal products, organisms, vectors, and germ plasm. In that document, we also proposed to establish new user fees that would pay the cost of processing applications to import live animals.

We solicited comments concerning our proposal for 60 days ending January 12, 2001. We did not receive any comments. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

## Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 604, we have performed a final regulatory flexibility analysis, which is set out below, regarding the economic effects of this rule on small entities.

We are amending the user fees for processing applications for permits to import and transport certain animal products, organisms, vectors, and germ plasm. We are also establishing new user fees that will pay the cost of processing applications to import live animals. We are taking this action in order to ensure that we recover our costs.

In our proposed rule, we specifically solicited comments concerning the potential economic effects of the proposed fee increases and new fees. As noted previously, we did not receive any comments in response to our proposed rule.

### *User Fees for the Importation of Germ Plasm*

Prior to the effective date of this rule, APHIS charged a fee of $55 for processing applications to import germ plasm. This rule replaces that single fee with two separate fees: One for processing initial applications for permits, and one for processing amended applications. The fee for processing each new permit application is $94, and the fee for processing each amended permit application is $47.

In fiscal year (FY) 1999, APHIS processed 448 applications for permits to import germ plasm (semen and embryos), generating total revenues of $17,696. We estimate that 90 of those applications were amended applications, and the rest were new applications.

Had the amended fee schedule been in effect during FY 1999[1], APHIS would have generated approximately $37,882 from processing those applications, an increase of $20,186 over actual revenues for that year. Further, as a result of increased world trade, it is likely that APHIS'' annual revenues from processing product applications will increase over time.

The number of different entities that submitted applications in FY 1999 and the number of applications submitted by each are not available. However, because approximately 90 entities submitted amended applications during the year, we know that the number of different entities is significantly less than the total application count of 448. The economic effect on individual entities will vary, depending on the size of the entity and the number of permits required. For an entity that requires only a few permits each year, as is likely to be the case with the smaller entities that are affected, the amended fees are not likely to have a significant economic impact. However, an entity that is large enough to require a large number of permits is also likely to be large enough to easily absorb the increased fees.

## User Fees for Processing Applications for Permits To Import Animal Products

APHIS charges applicants a fee for processing their applications for permits to import animal products (including byproducts, organisms, and vectors). The fees vary, depending on such factors as the type of application and the type of product. The following table shows the scheduled user fees prior to this final rule and the amended user fees:

| Service | Previously scheduled user fees | | | | Amended user fee |
|---|---|---|---|---|---|
| | Oct. 1, 2000–Sept. 30, 2001 | Oct. 1, 2001–Sept. 30, 2002 | Oct. 1, 2002–Sept. 30, 2003 | Beginning Oct. 1, 2003 | Beginning with effective date of this rule |
| Processing a permit application to import fetal bovine serum when inspection of a facility is required. | $283.00 per application. | $292.00 per application. | $300.00 per application. | $309.00 per application. | $322.00 per application |
| Processing an initial permit application to import certain animal products or import or transport organisms or vectors. | 36.00 per application. | 37.00 per application. | 38.00 per application. | 39.00 per application. | 94.00 per application |
| Processing an amended permit application to import certain animal products or import or transport organisms or vectors. | 15.00 per amended application. | 15.00 per amended application. | 16.00 per amended application. | 16.00 per amended application. | 47.00 per amended application |
| Processing a renewed permit application to import certain animal products or import or transport organisms or vectors. | 19.00 per application. | 20.00 per application. | 21.00 per application. | 21.00 per application. | 61.00 per application |

[1] For FY 1999, fees for processing applications for permits to import germ plasm were set at $39.50. Data on fee receipts based on currently scheduled fees, which were effective October 1, 2000, are not available.

Under this final rule, all fees will be increased from their current levels. The amended fee amounts were calculated to allow APHIS to recover the full costs of processing the applications. The previously scheduled fees do not allow for full cost recovery, especially given the additional staffing needed to provide applicants with a quick turnaround of their permit requests.

In FY 1999, APHIS processed 2,575 applications for permits to import animal products. Of that total, 2 were fetal bovine serum (with facility inspection) applications, 856 were initial applications to import animal products or import or transport organisms or vectors, 241 were amended applications, and 1,476 were renewed applications.

APHIS generated revenues of $48,868.50 from processing the 2,575 applications in FY 1999.[2] Had the amended fee schedule been in effect during FY 1999, APHIS would have generated $182,351 from processing those applications, an increase of $133,482.50 over actual revenues for that year. Further, as a result of increased world trade, it is likely that APHIS' annual revenues from processing animal product permit applications will increase over time.

The number of different entities that submitted applications in FY 1999 and the number of applications submitted by each are not available. However, because 241 entities submitted amended applications and 1,476 entities submitted renewed applications during the year, we know that the number of different entities is significantly less than the total application count of 2,575. The economic effect on individual entities will vary, depending on the size of the entity and the number of permits required. For an entity that requires only a few permits each year, as is likely to be the case with the smaller entities that are affected, the amended fees are not likely to have a significant economic impact. However, an entity that is large enough to require a large number of permits is also likely to be large enough to easily absorb the increased fees.

*User Fees for Processing Applications for Permits To Import Animals*

Under APHIS' regulations, importers must, under certain circumstances, apply for and obtain an import permit from the agency prior to importing live animals.[3] Prior to the effective date of this rule, APHIS has not charged applicants a fee for processing their permit applications.

Under this final rule, APHIS will charge applicants $94 for each new application and $47 for each amended application to import live animals. This final rule is intended to shift the cost of processing the applications from the general taxpayer (via appropriated funds) to the users of those services, i.e., the permit applicants. This final rule also removes an existing inequity, since, prior to this final rule, APHIS charged applicants a fee for processing their applications for permits to import animal products and germ plasm, but has not charged applicants a fee for processing applications for permits to import live animals.

In FY 1999, APHIS processed approximately 9,000 applications for permits to import animals. Of that total, approximately 7,500 were initial applications and 1,500 were amended applications. Had the amended fee schedule been in effect during FY 1999, APHIS would have generated additional revenues of $775,500 from processing those applications. Further, as a result of increased world trade, it is likely that APHIS' annual revenues from processing applications for permits to import live animals will increase over time.

The number of different entities that submitted applications in FY 1999 and the number of applications submitted by each are not available. However, because some entities submitted amended applications and some entities submitted more than one new application during the year, we know that the number of different entities is less than the total application count of 9,000.

Data on the types of entities who submit applications are not available, but those entities are believed to be varied, and include breeders, commercial researchers, universities, zoos, and private individuals. At least some of the commercial entity applicants are believed to be brokers acting on behalf of their client customers. Even though they do not submit permit applications to APHIS, the client customers of brokers are likely to be affected by this rule, since the application fees incurred by the brokers are likely to be passed on to them. The economic effect on individual entities will vary, depending on the size of the entity and the number of permits required. For an entity that requires only a few permits each year, as is likely to be the case with the smaller entities that are affected, the new user fees are not likely to have a significant economic effect. However, an entity that is large enough to require a large number of permits is also likely to be large enough to easily absorb the increased fees.

*Effects on Small Entities*

The Regulatory Flexibility Act requires that agencies consider the economic effects of their rules on small entities, i.e., small businesses, organizations, and governmental jurisdictions. The changes discussed above will affect those entities in the United States that import live animals, animal products, and germ plasm. They will be affected because they will have to pay new fees, or higher fees, to have APHIS process their permit applications.

The types of entities that may be affected vary widely, and include breeders, commercial researchers, universities, zoos, and private individuals. At least some of the commercial entities are likely to be brokers acting on behalf of their client customers. Even though they themselves do not submit permit applications to APHIS, the client customers of brokers will be affected by this final rule if the increased fees incurred by the brokers are passed on to them.

The number of different entities that will be affected by this final rule and the extent of the economic effects on each are unknown. In FY 1999, APHIS processed approximately 12,023 live animal, animal product, and germ plasm permit applications, but that figure overstates the number of affected entities because some entities submitted more than 1 application during the year. Furthermore, the total application count of 12,023 includes an unknown number of private individuals in the United States who import live animals, animal products, or germ plasm for nonbusiness reasons. These private individuals are not ''entities'' for purposes of this regulatory flexibility analysis.

It is reasonable to assume that most businesses affected by this final rule are small in size. This is because most U.S. businesses in general are small, based on the standards of the U.S. Small Business Administration (SBA). In 1996, for example, there were 1,197 U.S. firms in SIC 0751, a classification comprised of firms primarily engaged in performing certain services, including breeding, for cattle, hogs, sheep, goats, and poultry. Of those 1,197 firms, 97 percent had less than $5 million in sales

[2] The revenues collected in FY 1999 are based on collections of the fees that were in place during FY 1999.

[3] Whether or not an importer is required to obtain a permit from APHIS depends on several factors, including the type of animal to be imported and the country of export. The rules are designed to protect the health of the U.S. animal population, since such imports may pose a risk of introducing animal diseases.

that year, the SBA's small entity threshold. Similarly, in 1996, there were 7,408 U.S. firms in SIC 0752, a classification comprised of firms primarily engaged in performing certain services for pets, equines, and other animal specialties, including breeding services. Of those 7,408 firms, over 99 percent had less than $5 million in sales that year, the SBA's small entity threshold for firms in that SIC category. Accordingly, most of the businesses affected by this rule are likely to be small in size.

The economic effect on individual entities will vary, depending on the number of permits required by each. For an entity that requires only a few permits each year, as is likely to be the case with the smaller entities that are affected, the amended fees are not likely to have a significant economic effect. For an entity that submits five new live animal applications per year, the additional annual cost will be $470.

Further, we believe that in most cases, the cost of applying for a permit will be minimal in contrast to the value of the products or animals being imported. For instance, animals can range in value from less than $150 to well over $10,000. It is common for importers to group large amounts of less expensive animals together for a single importation, while more valuable animals may be imported alone. In either case, the cost of applying for a permit is expected to be minimal in comparison to the total value of the animals being imported.

This rule contains various recordkeeping requirements, which were described in our proposed rule, and which have been approved by the Office of Management and Budget (see ''Paperwork Reduction Act'' below).

**Executive Order 12988**

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

**Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0167 .

**List of Subjects in 9 CFR Part 130**

Animals, Birds, Diagnostic reagents, Exports, Imports, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Tests.

Accordingly, we are amending 9 CFR part 130 as follows:

## PART 130—USER FEES

1. The authority citation for part 130 continues to read as follows:

**Authority:** 5 U.S.C. 5542; 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114, 114a, 134a, 134c, 134d, 134f, 136, and 136a; 31 U.S.C. 3701, 3716, 3717, 3719, and 3720A; 7 CFR 2.22, 2.80, and 371.4.

2. Section 130.4 is added to read as follows:

### § 130.4 User fees for processing import permit applications.

User fees for processing applications for permits to import certain animals and animal products (using VS forms 16–3 and 17–129) are listed in the table in this section. The person for whom the service is provided and the person requesting the service are jointly and severally liable for payment of these user fees in accordance with §§ 130.50 and 130.51. The table follows:

| Service | Unit | User fee | | | |
|---|---|---|---|---|---|
| | | August 31, 2001–Sept. 30, 2001 | Oct. 1, 2001–Sept. 30, 2002 | Oct. 1, 2002–Sept. 30, 2003 | Beginning Oct. 1, 2003 |
| 1. Import compliance assistance: | | | | | |
| i. Simple (2 hours or less) | Per release | $64.00 | $66.00 | $68.00 | $70.00 |
| ii. Complicated (more than 2 hours) | Per release | 164.00 | 169.00 | 174.00 | 180.00 |
| 2. Processing an application for a Permit to import live animals, animal products or byproducts, organisms, vectors, or germ plasm (embryos or semen) or to transport organisms or vectors[1]. | | | | | |
| i. Initial Permit | Per application | 94.00 | 94.00 | 94.00 | 94.00 |
| ii. Amended Permit | Per amended application | 47.00 | 47.00 | 47.00 | 47.00 |
| iii. Renewed Permit[2] | Per application | 61.00 | 61.00 | 61.00 | 61.00 |
| 3. Processing an application for a Permit to import fetal bovine serum when facility inspection is required. | Per application | 322.00 | 322.00 | 322.00 | 322.00 |

[1] Using Veterinary Services Form 16–3, ''Application for Permit to Import or Transport Controlled Material or Organisms or Vectors,'' or Form 17–129, ''Application for Import or In Transit Permit (Animals, Animal Semen, Animal Embryos, Birds, Poultry, or Hatching Eggs).''

[2] Permits to import germ plasm and live animals are not renewable.

3. In § 130.8(a), the table is amended by removing the entries for ''Germ plasm being imported'' (including footnote 2), ''Import compliance assistance'', and ''Processing VS Form 16–3''.

Done in Washington, DC, this 26th day of July 2001.

**Bobby R. Acord,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 01–19182 Filed 7–31–01; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2000–NM–230–AD; Amendment 39–12348; AD 2001–15–14]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A330 and A340 series airplanes, that requires installation of a retainer device on the attachment pin of the brake torque rod of the main landing gear (MLG). The actions specified by this AD are intended to prevent the attachment pin from fully migrating from the brake torque rod and to prevent the collar from detaching from the MLG; these conditions could result in loss of braking on two wheels and the inability to extend the MLG. This action is intended to address the identified unsafe condition.

**DATES:** Effective September 5, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 5, 2001.

**ADDRESSES:** The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A330 and A340 series airplanes was published in the **Federal Register** on April 30, 2001 (66 FR 21294). That action proposed to require installation of a retainer device on the attachment pin of the brake torque rod of the main landing gear (MLG).

### Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

### Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

### Cost Impact

The FAA estimates that 7 Airbus Model A330 series airplanes of U.S. registry will be affected by this AD (there are no Airbus Model A340 series airplanes currently registered in the U.S.), that it will take approximately 4 work hours per airplane to accomplish the required retainer installation, and that the average labor rate is $60 per work hour. There will be no charge for required parts. Based on these figures, the cost impact of the retainer installation required by this AD on U.S. operators is estimated to be $1,680, or $240 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

### Regulatory Impact

The regulations adopted herein will not have a substantial direct effect 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (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) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

**2001–15–14 Airbus Industrie:** Amendment 39–12348. Docket 2000 NM–230 AD.

*Applicability:* Model A330 and A340 series airplanes, certificated in any category; except those on which Airbus Modification 47917 (Airbus Service Bulletin A330–32–3119 or A340–32–4157) has been incorporated in production.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by

this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent the attachment pin from fully migrating from the brake torque rod and the collar from detaching from the main landing gear (MLG), which could result in loss of braking on two wheels and the inability to extend the MLG, accomplish the following:

**Installation of Retainer Device**

(a) Within 5 months after the effective date of this AD, install a retainer device on the attachment pin of the brake torque rods of the MLG, in accordance with Airbus Service Bulletin A330–32–3119 (for Model A330 series airplanes) or A340–32–4157 (for Model A340 series airplanes), both dated July 13, 2000.

**Note 2:** The Airbus service bulletins refer to Messier-Dowty Service Bulletins A33/34–32–163 and A33/34–32–164, both dated March 1, 2000, as additional sources of service information for accomplishment of the installation required by this AD.

**Spares**

(b) As of the effective date of this AD, no person may install an MLG on any airplane unless it has been modified in accordance with the requirements of this AD.

**Alternative Methods of Compliance**

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

**Special Flight Permits**

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

**Incorporation by Reference**

(e) The installation shall be done in accordance with Airbus Service Bulletin A330–32–3119, dated July 13, 2000; or Airbus Service Bulletin A340–32–4157, dated July 13, 2000; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note 4:** The subject of this AD is addressed in French airworthiness directives 2000–478–130(B) and 2000–479–157(B), both dated November 29, 2000.

**Effective Date**

(f) This amendment becomes effective on September 5, 2001.

Issued in Renton, Washington, on July 19, 2001.

**Vi L. Lipski,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 01–18468 Filed 7–31–01; 8:45 am]

BILLING CODE 4910–13–U

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 95

**[Docket No. 30261; Amdt. No. 430]**

## IFR Altitudes; Miscellaneous Amendments

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

**EFFECTIVE DATE:** 0901 UTC, September 6, 2001.

**FOR FURTHER INFORMATION CONTACT:** Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

**SUPPLEMENTARY INFORMATION:** This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

**The Rule**

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

**Conclusion**

The FAA has determine that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(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. For the same reason, the FAA certifies that this amendment will 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 95**

Airspace, Navigation (air).

Issued in Washington, DC on July 27, 2001.

**Nicholas A. Sabatini,**

*Director, Flight Standards Service.*

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, September 6, 2001.

## PART 95—[AMENDED]

**§§ 951001, 95.6001, 95.6004, 95.6007, 95.6023, 95.6037, 95.6053, 95.6054, 95.6070, 95.6078, 95.6120, 95.6123, 95.6137, 95.6139, 95.6161, 95.6290, 95.6298, 95.6321, 95.6333, 95.6355, 95.6372, 95.6376, 95.6402, 95.6440, 95.6483, 95.6495, 95.6514, 95.6521, 95.6566, 95.6568, 95.6569, 95.6583, 95.7001, 95.7713, 95.8003, and 95.8005 [Amended]**

1. The authority citation for part 95 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINTS

[Amendment 430 Effective Date, September 6, 2001]

| From | To | MEA |
|---|---|---|
| **§ 95.1001 Direct Routes—U.S. Bahama Routes–062V Is Amended To Read in Part** | | |
| FREEPORT, BS VOR/DME | JAKEL, BS FIX | *4000 |
| *1400—MOCA | | |
| JAKEL, BS FIX | BERTH, BS FIX | *4000 |
| *1300—MOCA | | |
| **§ 95.6001 Victor Routes—U.S. § 95.6002 VOR Federal Airway 2 Is Amended To Read in Part** | | |
| *SEATTLE, WA VORTAC | VAMPS, WA FIX. | |
| E BND | | **8000 |
| W BND | | **4000 |
| *4300—MCA SEATTLE, WA VORTAC E BND | | |
| *3100—MOCA | | |
| VAMPS, WA FIX | *BEEZR, WA FIX | 8000 |
| *9000—MRA | | |
| BEEZR, WA FIX | ELLENSBURG, WA VORTAC | *8000 |
| *6800—MOCA | | |
| **§ 95.6004 VOR Federal Airway 4 Is Amended To Read in Part** | | |
| TOTOOSH, WA VORTAC | JAWBN, WA FIX | *5400 |
| *4600—MOCA | | |
| LOFAL, WA FIX | *SEATTLE, WA VORTAC | **4000 |
| *5200—MCA SEATTLE VORTAC E BND | | |
| **2800—MOCA | | |
| BLAKO, WA FIX | HUMPP, WA FIX. | |
| E BND | | *10000 |
| W BND | | *6400 |
| *6200—MOCA | | |
| HUMPP, WA FIX | CHINS, WA FIX | *10000 |
| *9000—MOCA | | |
| CHINS, WA FIX | TITON, WA FIX. | |
| E BND | | *7000 |
| W BND | | *10000 |
| *7000—MOCA | | |
| **§ 95.6007 VOR Federal Airway 7 Is Amended To Read in Part** | | |
| NITTS, FL FIX | *ORATE, FL FIX | **3000 |
| *3000—MRA | | |
| **1600—MOCA | | |
| **§ 95.6023 VOR Federal Airway 23 Is Amended To Read in Part** | | |
| WHATCOM, WA VORTAC | VANCOUVER, CA VORTAC | 3000 |
| **§ 95.6037 VOR Federal Airway 37 Is Amended To Read in Part** | | |
| COLUMBIA, SC VORTAC | *BLOTS, SC FIX | **4000 |
| *4000—MRA | | |
| **2300—MOCA | | |
| BOLTS, SC FIX | *GREAT, SC FIX | **4000 |
| *4000—MRA | | |
| **2300—MOCA | | |
| GREAT, SC FIX | RICHE, SC FIX | *4000 |

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINTS—Continued

[Amendment 430 Effective Date, September 6, 2001]

| From | To | MEA |
|---|---|---|
| *2300—MOCA | | |
| **§ 95.6053 VOR Federal Airway 53 Is Amended To Read in Part** | | |
| COLUMBIA, SC VORTAC | *WIDER, SC FIX | **4000 |
| *4000—MRA | | |
| **2300—MOCA | | |
| WIDER, SC FIX | *BUBBA, SC FIX | **4000 |
| *4000—MRA | | |
| **2300—MOCA | | |
| BUBBA, SC FIX | WILLS, SC FIX | *4000 |
| *2300—MOCA | | |
| **§ 95.6054 VOR Federal Airway 54 Is Amended To Read in Part** | | |
| DILLA, GA FIX | *SUNET, SC FIX | **8000 |
| **8000—MRA | | |
| **6200—MOCA | | |
| SUNET, SC FIX | RESTS, SC FIX | *8000 |
| *6200—MOCA | | |
| RESTS, SC FIX | CLEVA, SC FIX | *6000 |
| *4700—MOCA | | |
| **§ 95.6070 VOR Federal Airway 70 Is Amended To Read in Part** | | |
| BROWNSVILLE, TX VORTAC | *MADRE, TX FIX | 1600 |
| *5000—MRA | | |
| MADRE, TX FIX | *RAYMO, TX FIX | 1600 |
| *5000—MRA | | |
| **§ 95.6078 VOR Federal Airway 78 Is Amended To Read in Part** | | |
| SCHOOLCRAFT COUNTY, MI VOR/DME | PELLSTON, MI VORTAC | 2600 |
| **§ 95.6120 VOR Federal Airway 120 Is Amended To Read in Part** | | |
| *SEATTLE, WA VORTAC | TAGOR, WA FIX. | |
| E BND | | **8500 |
| W BND | | **5000 |
| *6300—MCA SEATTLE, WA VORTAC E BND | | |
| **5000—MOCA | | |
| TAGOR, WA FIX | CASHS, WA FIX | *12000 |
| *11400—MOCA | | |
| MITCHELL, SD VOR/DME | FRYRE, SD FIX | 3700 |
| **§ 95.6123 VOR Federal Airway 123 Is Amended To Read in Part** | | |
| HAARP, NY FIX | RYMES, NY FIX | *5000 |
| *2000—MOCA | | |
| RYMES, NY FIX | CARMEL, NY VOR/DME | 2500 |
| **§ 95.6137 VOR Federal Airway 137 Is Amended To Read in Part** | | |
| MORON, CA FIX | *ARRAN, CA FIX. | |
| *12000—MCA ARRAN FIX E BND | | |
| **§ 95.6139 VOR Federal Airway 139 Is Amended To Read in Part** | | |
| CAPE CHARLES, VA VORTAC | EWOOD, VA FIX | *2000 |
| *1500—MOCA | | |
| EWOOD, VA FIX | SNOW HILL, MD VORTAC | *6000 |
| *1500—MOCA | | |
| **§ 95.6161 VOR Federal Airway 161 Is Amended To Read in Part** | | |
| LLANO, TX VORTAC | *BUILT, TX FIX | **6000 |
| *6000—MRA | | |
| **2800—MOCA | | |
| **§ 95.6290 VOR Federal Airway 290 Is Amended To Read in Part** | | |
| TAR RIVER, NC VORTAC | KENIR, NC FIX | *4000 |

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINTS—Continued

[Amendment 430 Effective Date, September 6, 2001]

| From | To | MEA |
|---|---|---|
| *1500—MOCA | | |
| KENIR, NC FIX | PUNGO, NC FIX | *5000 |
| *1500—MOCA | | |
| **§ 95.6298 VOR Federal Airway 298 Is Amended To Read in Part** | | |
| *SEATTLE, WA VORTAC | VAMPS, WA FIX. | |
| W BND | | *4000 |
| E BND | | **8000 |
| *4300—MCA SEATTLE, WA VORTAC E BND | | |
| **3100—MOCA | | |
| **§ 95.6321 VOR Federal Airway 321 Is Amended To Read in Part** | | |
| *PREST, GA FIX | **COLUMBUS, GA VORTAC | ***5000 |
| *5000—MCA PREST FIX NW BND | | |
| **5000—MCA COLUMBUS VORTAC SE BND | | |
| ***3300—MOCA | | |
| **§ 95.6333 VOR Federal Airway 333 Is Amended To Read in Part** | | |
| CHOO CHOO, TN VORTAC | *BOOPS, TN FIX. | |
| *4500—MRA | | |
| **§ 95.6355 VOR Federal Airway 355 Is Amended To Read in Part** | | |
| BOWIE, TX VORTAC | WICHITA FALLS, TX VORTAC | 3100 |
| **§ 95.6372 VOR Federal Airway 372 Is Amended To Read in Part** | | |
| KAYOH, CA FIX | *HOMELAND, CA VOR. | |
| *11200—MCA HOMELAND VOR NE BND | | |
| **§ 95.6376 VOR Federal Airway 376 Is Amended To Read in Part** | | |
| RICHMOND, VA VORTAC | GRUBY, VA FIX | 2000 |
| GRUBY, VA FIX | IRONS, MD FIX | *2500 |
| *1700—MOCA | | |
| **§ 95.6402 VOR Federal Airway 402 Is Amended To Read in Part** | | |
| MOSER, TX FIX | PANHANDLE, TX VORTAC | *6000 |
| *5200—MOCA | | |
| PANHANDLE, TX VORTAC | *BRISC, TX FIX | **7000 |
| *7000—MRA | | |
| **4800—MOCA | | |
| **§ 95.6440 VOR Federal Airway 440 Is Amended To Read in Part** | | |
| PANHANDLE, TX VORTAC | *BRISC, TX FIX | **7000 |
| *7000—MRA | | |
| **4800—MOCA | | |
| **§ 95.6483 VOR Federal Airway 483 Is Amended To Read in Part** | | |
| DEER PARK, NY VOR/DME | RYMES, NY FIX | *2500 |
| *2000—MOCA | | |
| RYMES, NY FIX | CARMEL, NY VOR/DME | 2500 |
| **§ 95.6495 VOR Federal Airway 495 Is Amended To Read in Part** | | |
| CORVALLIS, OR VOR/DME | ADLOW, OR FIX | 4000 |
| ADLOW, OR FIX | NEWBERG, OR VOR/DME | *4000 |
| *3400—MOCA | | |
| BATTLE GROUND, WA VORTAC | *TOUTL, WA FIX. | |
| N BND | | **9000 |
| S BND | | **5000 |
| *8500—MRA | | |
| **5000—MOCA | | |
| ALDER, WA FIX | CIDUG, WA FIX. | |
| N BND | | *5000 |
| S BND | | *9000 |

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINTS—Continued

[Amendment 430 Effective Date, September 6, 2001]

| From | To | MEA |
|---|---|---|
| *4000—MOCA | | |
| CIDUG, WA FIX | SEATTLE, WA VORTAC | *5000 |
| *3000—MOCA | | |
| SEATTLE, WA VORTAC | LOFAL, WA FIX | *4000 |
| *2800—MOCA | | |
| U.S. CANADIAN BORDER | WHATCOM, WA VORTAC | *3000 |
| *1900—MOCA | | |
| **§ 95.6514 VOR Federal Airway 514 Is Amended To Read in Part** | | |
| JULIAN, CA VORTAC | WARNE, CA FIX. | |
| SW BND | | 8000 |
| NE BND | | 9000 |
| **§ 95.6521 VOR Federal Airway 521 Is Amended To Read in Part** | | |
| NITTS, FL FIX | *ORATE, FL FIX | **3000 |
| *3000—MRA | | |
| **1600—MOCA | | |
| **§ 95.6566 VOR Federal Airway 566 Is Amended To Read in Part** | | |
| KNELT, LA FIX | COVEX, LA FIX | *3500 |
| *1800—MOCA | | |
| **§ 95.6568 VOR Federal Airway 568 Is Amended To Read in Part** | | |
| LLANO, TX VORTAC | *BUILT, TX FIX | **6000 |
| *6000—MRA | | |
| **2800—MOCA | | |
| MILLSAP, TX VORTAC | KARYN, TX FIX | 3000 |
| KARYN, TX FIX | WICHITA FALLS, TX VORTAC | 3100 |
| **§ 95.6569 VOR Federal Airway 569 Is Amended To Read in Part** | | |
| FRANKSTON, TX VOR/DME | CEDAR CREEK, TX VORTAC | 2000 |
| **§ 95.6583 VOR Federal Airway 583 Is Amended To Read in Part** | | |
| PARIS, TX VOR/DME | MC ALESTER, OK VORTAC | *3000 |
| *2500—MOCA | | |

| From | To | MEA | MAA |
|---|---|---|---|
| **§ 95.7001 Jet Routes** | | | |
| **§ 95.7713 Jet Route No. 713 Is Added To Read** | | | |
| SALT LAKE CITY, UT VORTAC | BIG PINEY, WY VOR/DME | 26000 | 45000 |
| BIG PINEY, WY VOR/DME | BOYSEN RESERVOIR, WY VOR/DME | 18000 | 45000 |
| BOYSEN RESERVOIR, WY VOR/DME | BILLINGS, MT VORTAC | 18000 | 45000 |

| Airway segment | | Changeover points | |
|---|---|---|---|
| From | To | Distance | From |
| **§ 95.8003 VOR Federal Airway Changeover Points Is Amended To Modify Changeover Point V–23** | | | |
| GORMAN, CA VORTAC | SHAFTER, CA VORTAC | 10 | GORMAN |
| **Is Amended To Add Changeover Point V–139** | | | |
| CAPE CHARLES, VA VORTAC | SNOW HILL, MD VORTAC | 33 | CAPE CHARLES |
| **Is Amended To Add Changeover Point V–283** | | | |
| HECTOR, CA VORTAC | BOULDER CITY, NV VORTAC | 23 | HECTOR |
| **§ 95.8005 Jet Routes Changeover Points Is Amended To Add Changeover Point J–713** | | | |
| SALT LAKE CITY, UT VORTAC | BIG PINEY, WY VOR/DME | 40 | SALT LAKE CITY |

[FR Doc. 01–19156 Filed 08–01–01; 8:45 am]
**BILLING CODE 4910–13–M**

## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 31

**[TD 8959]**

**RIN 1545–AY21**

## Interest-Free Adjustments With Respect to Underpayments of Employment Taxes

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to interest-free adjustments with respect to underpayments of employment taxes. These final regulations reflect changes to the law made by the Taxpayer Relief Act of 1997. The final regulations affect employers that are the subject of IRS examinations involving determinations by the IRS that workers are employees for purposes of subtitle C or that the employers are not entitled to relief from employment taxes under section 530 of the Revenue Act of 1978.

**DATES:** *Effective Date:* These regulations are effective August 1, 2001.

*Applicability Date:* These regulations are applicable with respect to notices of determination issued on or after March 19, 2001. Interest will be computed under the rule in this regulation on any claims for refund of interest pending on January 17, 2001. No inference is intended that the rule set forth in these final regulations is not current law.

**FURTHER INFORMATION CONTACT:** Lynne Camillo (202) 622–6040 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Background

This document contains an amendment to the Employment Tax Regulations (26 CFR part 31) under section 6205. On January 17, 2001, the IRS published in the **Federal Register** (66 FR 3956) a notice of proposed rulemaking (REG–110374–00) under section 6205 of the Internal Revenue Code relating to interest-free adjustments of employment tax underpayments. The notice proposed to amend § 31.6205–1 of the employment tax regulations.

No written comments responding to the notice of proposed rulemaking were received. No public hearing was requested or held. Accordingly, the proposed regulations are adopted as final regulations.

Section 6205 allows employers that have paid less than the correct amount of employment taxes to make adjustments without interest, provided the error is reported and the taxes are paid by the last day for filing the return for the quarter in which the error was ascertained. However, no interest-free adjustments are permitted pursuant to section 6205 after receipt of notice and demand for payment thereof based upon an assessment. § 31.6205–1(a)(6).

The Taxpayer Relief Act of 1997, Public Law 105–34 (111 Stat. 788), effective August 5, 1997, created new section 7436 of the Internal Revenue Code (Code), which provides the Tax Court with jurisdiction to review determinations by the IRS that workers are employees for purposes of subtitle C, or that the employer is not entitled to relief from employment taxes under section 530. Section 7436 resulted in a change in the way employment tax examinations involving worker classification and section 530 issues are conducted insofar as notice and demand for payment of an employment tax underpayment based upon an assessment cannot be made until after the taxpayer under examination receives notice of the IRS's determination and has been given an opportunity to file a petition in the Tax Court contesting such determination.

### Explanation of Provisions

This document contains an amendment to the regulations under section 6205. The amendment clarifies the period for adjustments of employment tax underpayments without interest under section 6205 following the expansion of Tax Court review to certain employment tax determinations.

As a general rule, under section 6601, all taxpayers who fail to pay the full amount of a tax due under the Code must pay interest at the applicable rate on the unpaid amount from the last date prescribed for payment of the tax until the date the tax is paid. However, section 6205 allows employers that have paid less than the correct amount of certain employment taxes [1] with respect to any payment of wages or compensation to make adjustments to returns without interest pursuant to the regulations. The employment tax regulations under section 6205 generally allow employers to make adjustments to returns without interest until the last day for filing the return for the quarter in which the error was ascertained. An error is ascertained when the employer has sufficient knowledge of the error to be able to correct it. § 31.6205–1(a)(4). Section 31.6205–1(a)(6) provides that no interest-free adjustments can be made after receipt of a statement of notice and demand for payment based upon an assessment.

In Revenue Ruling 75–464 (1975–2 C.B. 474), the IRS further clarified the time for adjustments under section 6205. The ruling clarifies that employers can still make interest-free adjustments where the underpayment is discovered during an audit or examination (i.e., where the employer has not independently ascertained the underpayment). The ruling sets forth situations illustrating when an error is ascertained with respect to returns under audit by the IRS. Under the facts in the revenue ruling, an error is ascertained when the employer signs an ''Agreement to Adjustment and Collection of Additional Tax'', Form 2504, either at the examination level or the appeals level, when the taxpayer pays the full amount due so as to file a refund claim (if paid prior to notice and demand), or at the conclusion of internal IRS appeal rights if no agreement is reached. Under the factual situations in Revenue Ruling 75–464, the employment taxes can be paid free of interest at the time the employer signs Agreement Form 2504 or at the time it pays the tax preparatory to filing a claim to contest the liability in court, after having exhausted all appeal rights within the IRS, provided the payment is made before the taxpayer receives notice and demand for payment.

The Taxpayer Relief Act of 1997, Public Law 105–34 (111 Stat. 788), created new section 7436 of the Code which provides the Tax Court with jurisdiction to review determinations by the IRS that workers are employees for purposes of subtitle C of the Code, or that the organization for which services are performed is not entitled to relief from employment taxes under section 530. Section 7436(a) requires that the determination involve an actual controversy and that it be made as part of an examination. Subsequent to enactment of section 7436 of the Code, the IRS created a standard notice, the ''Notice of Determination Concerning Worker Classification Under Section 7436'' (notice of determination) to serve as the ''determination'' that is a prerequisite to invoking the Tax Court's

[1] Section 6205 applies to underpayments of taxes under the Federal Insurance Contributions Act (FICA), the Railroad Retirement Tax Act (RRTA), and income tax withholding. Section 6205 does not apply to underpayments of taxes under Federal Unemployment Tax Act (FUTA), as such underpayments are not subject to interest under section 6601(i).

jurisdiction under section 7436. Notice 98–43 (1998–33 I.R.B. 13).

Section 7436(d)(1) provides that the suspension of the limitations period for assessment in section 6503(a) applies in the same manner as if a notice of deficiency had been issued. Thus, pursuant to section 6503(a), the mailing of the notice of determination by certified or registered mail will suspend the statute of limitations for assessment of taxes attributable to the worker classification and section 530 issues. Generally, the statute of limitations for assessment of taxes attributable to the worker classification and section 530 issues is suspended for the 90-day period during which the taxpayer can begin a suit in Tax Court, plus an additional 60 days thereafter. Moreover, if the taxpayer does file a timely petition in the Tax Court, the statute of limitations for assessment of taxes attributable to the worker classification and section 530 issues is suspended under section 6503(a) during the Tax Court proceedings, and for sixty days after the Tax Court decision becomes final.

Current IRS guidance provides for interest-free adjustments under section 6205 prior to assessment and notice and demand. Because of the prohibition on assessment for cases pending in the Tax Court, this creates a potential for inconsistent application of interest depending upon whether an employer files a claim in the Tax Court or in another court of Federal jurisdiction. The legislative history of section 7436 shows no intent to create an advantage for taxpayers who choose to litigate their cases in Tax Court as opposed to another court of Federal jurisdiction. H.R. No. 105–148, 105th Cong., 1st Sess., at 639–640 (1997). Taxpayers who choose to petition the Tax Court under section 7436 still have the benefit of all of the inherent advantages of litigating in the Tax Court, including the ability to obtain judicial review without prior payment of the additional tax the IRS has determined to be due.

Judicial and administrative precedents provide that an error is ascertained for purposes of section 6205 (ending the period for interest-free adjustments) when the taxpayer has exhausted all internal appeal rights with the IRS. *Eastern Investment Corp. v. United States,* 49 F. 3d 651 (10th Cir. 1995); Rev. Rul. 75–464 (1975–2 C.B. 474). In the context of refund litigation, where a taxpayer whose erroneous underpayment of employment taxes is discovered during an examination pays only the required divisible portion of employment tax prior to filing a claim for refund in order to satisfy the jurisdictional requirements for filing suit in district court, interest continues to accrue on the unpaid portion of employment tax from the date upon which the tax is assessed after the taxpayer has exhausted all appeal rights within the IRS until the date such tax is paid. See *Eastern Investment Corp., supra* (rejecting taxpayer's argument that the error could not have been ''ascertained'' until a decision was made by the court and the liability was no longer being contested). Moreover, in Tax Court deficiency proceedings that do not involve employment taxes, unless the taxpayer makes a deposit to stop the running of interest, interest continues to accrue on the deficiency during the course of the Tax Court proceeding. Rev. Rul. 56–501 (1956–2 C.B. 954).

In employment tax examinations that do not involve worker classification or section 530 issues, the taxpayer has exhausted all internal appeal rights by the time a notice and demand for payment thereof based upon an assessment is received. Similarly, in employment tax examinations involving worker classification or section 530 issues, the taxpayer has already had the benefit of all of the same internal appeal rights by the time a notice of determination is received.

These final regulations provide that, in employment tax examinations involving worker classification or section 530 issues, as in other types of employment tax examinations, the error is ascertained for purposes of section 6205 when the employer has exhausted all internal appeals within the IRS. The fact that notice and demand for payment based upon an assessment cannot be made in cases involving worker classification and section 530 issues until the suspension of the statute of limitations is lifted, following issuance of a notice of determination, does not result in an extension of the period during which interest-free adjustments can be made under section 6205. Accordingly, in order to clarify that the error is ascertained for purposes of section 6205 once a taxpayer has exhausted all internal appeal rights with the IRS, the existing regulations are hereby modified by prohibiting interest-free adjustments after receipt of the notice of determination.

However, if, prior to receipt of a notice of determination, a taxpayer makes a remittance which is equal to the amount of the proposed liability, the IRS considers the remittance a payment and assesses it. Rev. Proc. 84–58 (1984–2 C.B. 501). In such a situation, no notice of determination would be sent to the taxpayer. If a taxpayer wants to stop the running of interest and contest the adjustment in the Tax Court, the taxpayer may make a remittance, designating it in writing as a deposit in the nature of a cash bond. If the taxpayer makes such a deposit, the IRS does not consider the remittance a payment. Id. at § 4.02. The deposit stops the running of interest and, if the taxpayer does not waive the restrictions on assessment, the IRS will send the taxpayer a notice of determination, thus permitting the taxpayer the option of Tax Court review.

In order to provide a mechanism for taxpayers to make a remittance to stop the accrual of interest, yet still receive a notice of determination and retain the right to petition the Tax Court, these final regulations further modify the existing regulations to provide that, prior to receipt of a notice of determination, the taxpayer may, in lieu of making a payment, make a cash bond deposit which would have the effect of stopping the accrual of any interest, but would not deprive the taxpayer of its right to receive a notice of determination and to petition the Tax Court under section 7436.

**Special Analyses**

It has been determined that this final regulation is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

**Drafting Information**

The principal author of this final regulation is Lynne Camillo, Office of the Assistant Chief Counsel (Exempt Organizations/Employment Tax/Government Entities). However, other personnel from the IRS and Treasury Department participated in their development.

**List of Subjects in 26 CFR Part 31**

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping

requirements, Social Security, Unemployment compensation.

**Amendments to the Regulations**

Accordingly, 26 CFR part 31 is proposed to be amended as follows:

## PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT THE SOURCE

**Paragraph 1.** The authority for part 31 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 * * *.

**Par. 2.** In § 31.6205–1, paragraph (a)(6) is revised to read as follows:

**§ 31.6205–1 Adjustments of underpayments.**

(a) * * *

(6) No underpayment shall be reported pursuant to this section after the earlier of the following—

(i) Receipt from the Director of notice and demand for payment thereof based upon an assessment; or

(ii) Receipt from the Director of a Notice of Determination Concerning Worker Classification Under Section 7436 (Notice of Determination). (Prior to receipt of a Notice of Determination, the taxpayer may, in lieu of making a payment, make a cash bond deposit which would have the effect of stopping the accrual of any interest, but would not deprive the taxpayer of its right to receive a Notice of Determination and to petition the Tax Court under section 7436).

* * * * *

**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*

Approved: July 20, 2001.

**Mark A. Weinberger,**

*Assistant Secretary of the Treasury.*

[FR Doc. 01–19198 Filed 7–31–01; 8:45 am]

**BILLING CODE 4830–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–301150; FRL–6792–2]**

**RIN 2070–AB78**

## Carfentrazone-ethyl; Pesticide Tolerances for Emergency Exemptions

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a time-limited tolerance for combined residues of carfentrazone-ethyl and its metabolite in or on hop, dried cones. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on hops. This regulation establishes a maximum permissible level for residues of carfentrazone-ethyl in this food commodity. The tolerance will expire and is revoked on June 30, 2003.

**DATES:** This regulation is effective August 1, 2001. Objections and requests for hearings, identified by docket control number OPP–301150 must be received by EPA on or before October 1, 2001.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301150 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Barbara Madden, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6463; and e-mail address: madden.barbara@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

| Categories | NAICS Codes | Examples of Potentially Affected Entities |
|---|---|---|
| Industry | 111<br>112<br>311<br><br>32532 | Crop production<br>Animal production<br>Food manufacturing<br>Pesticide manufacturing |

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?*

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00 html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301150. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

### II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(1)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for combined residues of the herbicide carfentrazone-ethyl, ethyl-alpha-2-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl)-4-fluorobenzenepropanoate) and carfentrazone-ethyl chloropropionic acid (alpha,2-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-

5-oxo-1H-1,2,4-triazol-1-yl]-4-fluorobenzenepropanoic acid in or on hop, dried cones at 0.30 part per million (ppm). This tolerance will expire and is revoked on June 30, 2003. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue.''

Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

## III. Emergency Exemption for Carfentrazone-ethyl on Hops and FFDCA Tolerances

Powdery mildew (*S. macularis*) is a serious hop disease in many hop growing areas throughout the world. During the early part of this century, a commercial hop production industry in New York state was devastated due to what is believed to have been an uncontroled outbreak of powdery mildew. Before June of 1997, this disease had not been observed in the Pacific Northwest. Though fungicides have been made available to control powdery mildew in hops, the States indicate that the role of carfentrazone-ethyl is to remove the main sources of inoculum of powdery mildew. First, it desiccates the infected primary shoots that first emerge in the spring. Second, it kills back the tertiary shoots (suckers) that emerge after the secondary shoots are trained to grow up to bear the crop. These tertiary shoots will harbor secondary infection and be a source of spores to infect the crop; they are too dense to be effectively sprayed with fungicides. Registered alternative desiccants are inadequate for two reasons: limits on the number of endothall applications preclude season-long control, and paraquat causes injury to some varieties. Carfentrazone-ethyl would allow season-long control. EPA has authorized under FIFRA section 18 the use of carfentrazone-ethyl on hops for control of sucker growth as an indirect control for powdery mildew in Idaho, Oregon, and Washington. After having reviewed the submissions, EPA concurs that emergency conditions exist for these States.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of carfentrazone-ethyl in or on hops. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6). Although this tolerance will expire and is revoked on June 30, 2003, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on hop, dried cones after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions, EPA has not made any decisions about whether carfentrazone-ethyl meets EPA's registration requirements for use on hops or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of carfentrazone-ethyl by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than Idaho, Oregon, and Washington to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for carfentrazone-ethyl, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

## IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7) .

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of carfentrazone-ethyl and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for combined residues of carfentrazone-ethyl and its metabolite in or on hop, dries cones at 0.30 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

### *A. Toxicological Endpoints*

The dose at which no adverse effects are observed the (NOAEL) from the toxicology study identified as appropriate for use in risk assessment is

used to estimate the toxicological endpoint. However, the lowest dose at which adverse effects of concern are identified (LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intra species differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology ($Q^*$) is the primary method currently used by the Agency to quantify carcinogenic risk. The $Q^*$ approach assumes that any amount of exposure will lead to some degree of cancer risk. A $Q^*$ is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as $1 \times 10^{-6}$ or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure ($MOE_{cancer}$ = point of departure/exposures) is calculated. A summary of the toxicological endpoints for carfentrazone-ethyl used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR CARFENTRAZONE-ETHYL FOR USE IN HUMAN RISK ASSESSMENT

| Exposure Scenario | Dose Used in Risk Assessment, UF | FQPA SF* and Level of Concern for Risk Assessment | Study and Toxicological Effects |
|---|---|---|---|
| Acute dietary general population including females 13–50 years of age, infants, and children | NOAEL = 500 mg/kg/day<br>UF = 100<br>Acute RfD = 5 mg/kg/day | FQPA SF = 1<br>aPAD = acute RfD<br>FQPA SF = 5 mg/kg/day | Acute neurotoxicity study in rats<br>LOAEL = 1,000 mg/kg/day based on clinical observations (i.e., salivation) and decreased motor activity. |
| Chronic dietary all populations | NOAEL = 3 mg/kg/day<br>UF = 100<br>Chronic RfD = 0.03 mg/kg/day | FQPA SF = 1<br>cPAD = chronic RfD<br>FQPA SF = 0.03 mg/kg/day | 2–Year chronic toxicity study in rats<br>LOAEL = 12 mg/kg/day based on liver histopathology (increases in microscopic red fluorescence of the liver, liver pigment) and total mean urinary porphyrin. |
| Short-term incidental oral exposures (1 to 7 days) | NOAEL = 500 mg/kg/day | LOC for MOE = 100 (residential) | Acute neurotoxicity study in rats<br>LOAEL = 1,000 mg/kg/day based on clinical observations (i.e., salivation) and decreased motor activity. |
| Intermediate-term incidental oral exposures (1 week to several months) | NOAEL = 50 mg/kg/day | LOC for MOE = 100 (residential) | Subchronic oral toxicity study in the dog<br>LOAEL = 150 mg/kg/day based on decreased body weight gain and increased porphyrin levels. |
| Short-term dermal (1 to 7 days) and intermediate-term dermal (1 week to several months) (residential) | None | None | No systemic toxicity was seen at the limit-dose (1,000 mg/kg/day) in a 21–day dermal toxicity study in rats. |
| Long-term dermal (several months to lifetime) (residential) | None | None | None |
| Short-term inhalation (1 to 7 days) (residential) | Inhalation (or oral) study<br>NOAEL= 500 mg/kg/day (inhalation absorption rate = 100%) | LOC for MOE = 100 (residential) | Acute neurotoxicity study in rats.<br>LOAEL = 1,000 mg/kg/day based on clinical observations (i.e., salivation) and motor activity changes. |
| Intermediate-term inhalation (1–week to several months) (residential) | Inhalation (or oral) study<br>NOAEL = 50 mg/kg/day (inhalation absorption rate = 100%) | LOC for MOE = 100 (residential) | Subchronic toxicity study in dogs<br>LOAEL = 150 mg/kg/day based on decreased body weight gain and increased porphyrin levels. |

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR CARFENTRAZONE-ETHYL FOR USE IN HUMAN RISK ASSESSMENT—Continued

| Exposure Scenario | Dose Used in Risk Assessment, UF | FQPA SF* and Level of Concern for Risk Assessment | Study and Toxicological Effects |
|---|---|---|---|
| Long-term inhalation (several months to lifetime) (residential) | Inhalation (or oral) study NOAEL = 3 mg/kg/day (inhalation absorption rate = 100%) | LOC for MOE = 100 (residential) | Chronic toxicity study in rats LOAEL = 12 mg/kg/day based on liver histopathology and increased urinary porphyrin levels. |
| Cancer (oral, dermal, inhalation) | Carfentrazone-ethyl has been classified as ''not likely'' to be a human carcinogen. | None | There was no evidence of carcinogenicity in either a mouse carcinogenicity study or a rat carcinogenicity study. |

* The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

*B. Exposure Assessment*

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.515) for the combined residues of carfentrazone-ethyl and its metabolite, in or on a variety of raw agricultural commodities including corn, cereal grains and sorghum. Risk assessments were conducted by EPA to assess dietary exposures from carfentrazone-ethyl in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. The Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: 100% crop treated, tolerance level residues for all commodities and DEEM™ default processing factors for all registered and proposed commodities.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment, the DEEM™ analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: 100% crop treated, tolerance level residues for all commodities and DEEM™ default processing factors for all registered and proposed commodities.

iii. *Cancer.* Carfentrazone-ethyl has been classified as ''not likely'' to be a human carcinogen. Therefore, risk assessments to estimate cancer risk were not conducted.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for carfentrazone-ethyl in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of carfentrazone-ethyl.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in ground water. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to carfentrazone-ethyl, they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI-GROW models, the estimated environmental concentrations (EECs) of carfentrazone-ethyl for acute exposures are estimated to be 21 parts per billion (ppb) for surface water and 13.4 ppb for ground water. The EECs for chronic exposures are estimated to be 6.6 ppb for surface water and 13.4 ppb for ground water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Carfentrazone-ethyl is not registered for use on any sites that would result in residential exposure; however, there is a pending use for carfentrazone-ethyl for use on ornamental lawns and turf, including residential and institutional lawns. Therefore, the Agency assessed the estimated exposure from non-dietary exposures. The Agency assessed the non-dietary incidental ingestion via hand-to-mouth exposure by a toddler as this scenario was anticipated to

represent the highest exposure potential in the residential setting. Since dermal endpoints have not been selected, no residential post-application dermal assessment was conducted.

4. *Cumulative exposure to substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether carfentrazone-ethyl has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, carfentrazone-ethyl does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that carfentrazone-ethyl has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

*C. Safety Factor for Infants and Children*

1. *Safety factor for infants and children*— i. *In general*. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

ii. *Developmental toxicity studies*. In a developmental toxicity study in rats, body weight, body weight gain, food consumption, gross pathology, and cesarean section data were similar between control and treated groups. The maternal LOAEL is 600 mg/kg/day (based on staining of the abdominogenital area and of the cage pan liner); the maternal NOAEL is 100 mg/kg/day. Evaluation of litter data and an assessment of embryonic and fetal development, including litter size, post-implantation loss, fetal weights, and sex ratio, did not reveal any evidence of treatment-related toxicity. Examination of fetuses for alterations of external, visceral, and skeletal development revealed significantly increased litter incidences of wavy and thickened ribs in the 1,250 mg/kg/day treatment group. The developmental LOAEL is 1,250 mg/kg/day (based upon a significant increase in the litter incidences of wavy and thickened ribs); the developmental NOAEL is 600 mg/kg/day.

In a developmental toxicity study in rabbits, evidence of treatment-related maternal toxicity consisted of unthriftiness and emaciation in two doses at 300 mg/kg/day. The maternal LOAEL is 300 mg/kg/day; the maternal NOAEL is greater than or equal to 150 mg/kg/day. There was no evidence of treatment-related prenatal developmental toxicity: the developmental LOAEL was not determined; the developmental NOAEL is greater than or equal to 300 mg/kg/day.

iii. *Reproductive toxicity study*. In a 2–generation reproduction study in rats, the parental systemic LOAEL is 4,000 ppm (equivalent to 343 mg/kg/day for males and 387 mg/kg/day for females) based on decreased body weight gains, increased liver weights, liver and bile duct histopathology, and reductions in the mean cell volume ($F_0$ and $F_1$ males, $F_1$ females), mean cell hemoglobin ($F_0$ and $F_1$ males, $F_1$ females), hematocrit ($F_1$ males), and hemoglobin ($F_1$ males). The parental systemic NOAEL is 1,500 ppm (equivalent to 127 mg/kg/day for males and 142 mg/kg/day for females). The offspring LOAEL is 4,000 ppm (387 mg/kg/day) based on decreased pup body weights in both sexes of the $F_2$ generation. The offspring NOAEL is 1,500 ppm (142 mg/kg/day).

iv. *Prenatal and postnatal sensitivity*. The toxicity data provided no indication of increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to carfentrazone-ethyl. In the prenatal developmental toxicity studies in rats and rabbits and the 2–generation reproduction study in rats, effects in the offspring were observed only at or above treatment levels which resulted in evidence of par ental toxicity.

v. *Conclusion*. There are no data gaps for the assessment of the effects of carfentrazone-ethyl following *in utero* and/or postnatal exposure. There is a complete toxicity data base for carfentrazone-ethyl and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. The data provided no indication of increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to carfentrazone-ethyl. Based on the toxicity profile for carfentrazone-ethyl, a developmental neurotoxicity study in rats is not required. Therefore, the FQPA Safety Factor, for enhanced sensitivity to infants and children was reduced from 10X to 1X.

*D. Aggregate Risks and Determination of Safety*

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + chronic non-dietary, non-occupational exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to carfentrazone-ethyl in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses

are added in the future, EPA will reassess the potential impacts of carfentrazone-ethyl on drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to carfentrazone-ethyl will occupy less than 0.1% of the aPAD for the U.S. population and all population subgroups represented in DEEM™. In addition, despite the potential for acute dietary exposure to carfentrazone-ethyl in drinking water, after calculating DWLOCs and comparing them to conservative model EECs of carfentrazone-ethyl in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO CARFENTRAZONE-ETHYL

| Population Subgroup | aPAD (mg/kg) | % aPAD (Food) | Surface Water EEC (ppb) | Ground Water EEC (ppb) | Acute DWLOC (ppb) |
|---|---|---|---|---|---|
| U.S. population | 5 | <0.1% | 21 | 13.4 | $1.8 \times 10^5$ |
| All infants (<1–year old) | 5 | <0.1% | 21 | 13.4 | $5 \times 10^4$ |
| Children (1–6 years old) | 5 | <0.1% | 21 | 13.4 | $5 \times 10^4$ |

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to carfentrazone-ethyl from food will utilize 1% of the cPAD for the U.S. population, 3% of the cPAD for all infants less than 1–year old and 3% of the cPAD for children 1–6 years old, the subpopulation with the greatest exposure. Based on the use pattern, chronic residential exposure to residues of carfentrazone-ethyl is not expected. In addition, despite the potential for chronic dietary exposure to carfentrazone-ethyl in drinking water, after calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of carfentrazone-ethyl in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO CARFENTRAZONE-ETHYL

| Population Subgroup | cPAD mg/kg/day | % cPAD (Food) | Surface Water EEC (ppb) | Ground Water EEC (ppb) | Chronic DWLOC (ppb) |
|---|---|---|---|---|---|
| U.S. population | 0.03 | 1 | 6.6 | 13.4 | $1 \times 10^3$ |
| All infants (<1–year old) | 0.03 | 3 | 6.6 | 13.4 | $1 \times 10^3$ |
| Children (1–6 years old) | 0.03 | 3 | 6.6 | 13.4 | $1 \times 10^3$ |

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Carfentrazone-ethyl is not registered for use on any sites that would result in residential exposure; however, there is a pending use for carfentrazone-ethyl for use on ornamental lawns and turf, including residential and institutional lawns. Therefore, the Agency assessed the estimated aggregate risk from non-dietary incidental ingestion via hand-to-mouth exposure by a toddler. This scenario is expected to represent the highest exposure potential in the residential setting. Since dermal endpoints have not been selected, no residential post-application dermal assessment was conducted. Therefore, the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for carfentrazone-ethyl.

Using the exposure assumptions described in this unit for non-dietary exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 3,600 for children and 4,100 for infants for incidental oral exposure. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of carfentrazone-ethyl in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO CARFENTRAZONE-ETHYL

| Population Subgroup | Aggregate MOE (Food + Residential) | Aggregate Level of Concern (LOC) | Surface Water EEC (ppb) | Ground Water EEC (ppb) | Short-Term DWLOC (ppb) |
|---|---|---|---|---|---|
| All infants <(1–year old) | 4,100 | 100 | 6.6 | 13.4 | $5 \times 10^4$ |
| Children (1–6 years old) | 3,600 | 100 | 6.6 | 13.4 | $5 \times 10^4$ |

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level). Though residential exposure could occur with the use of carfentrazone-ethyl, only endpoints have been identified for incidental oral exposures. Intermediate-term incidental exposures (1 week to several months) are not expected. Therefore, for intermediate-term exposures, the aggregate risk is the sum of the risk from food and water, which were previously addressed.

5. *Aggregate cancer risk for U.S. population*. Carfentrazone-ethyl has been classified as ''not likely'' to be a human carcinogen. Therefore, risk assessments to estimate cancer risk were not conducted.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to carfentrazone-ethyl residues.

## V. Other Considerations

### *A. Analytical Enforcement Methodology*

Adequate enforcement methodology is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

### *B. International Residue Limits*

There is neither a Codex proposal, nor Canadian or Mexican maximum residue limits, for residues of carfentrazone-ethyl and its metabolite in or on hops. Therefore harmonization is not issue.

### *C. Conditions*

Carfentrazone-ethyl can be applied at 0.03 lbs per application per acre with a seasonal maximum of 0.12 lbs carfentrazone-ethyl applied per acre. Allow 14 days between treatments. A 7 day pre-harvest interval (PHI) must be observed.

Corn (field, sweet, seed, popcorn, and silage), soybeans, grain sorghum, rice, wheat, barley, oats, buckwheat, pearl millet, proso millet, teosinte, and wild rice may be planted anytime following application of carfentrazone-ethyl to hops. All other crops may be planted 365 days after an application of carfentrazone-ethyl.

## VI. Conclusion

Therefore, the tolerance is established for combined residues of carfentrazone-ethyl, ethyl-alpha-2-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl)-4-fluorobenzenepropanoate) and carfentrazone-ethyl chloropropionic acid (alpha,2-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]-4-fluorobenzenepropanoic acid in or on hop, dried cones at 0.30 ppm.

## VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

### *A. What Do I Need to Do to File an Objection or Request a Hearing?*

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301150 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before October 1, 2001.

1. *Filing the request*. Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment*. If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3.*Copies for the docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP–301150, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania

Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

*B. When Will the Agency Grant a Request for a Hearing?*

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

**VIII. Regulatory Assessment Requirements**

This final rule establishes a time-limited tolerance under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under FFDCA section 408, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications '' is defined in the Executive Order to include regulations that 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.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any tribal implications as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

**IX. Submission to Congress and the Comptroller General**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 13, 2001.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

**PART 180—[AMENDED]**

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346(a) and 371

2. Section 180.515 is amended by alphabetically adding the following commodity to the table in paragraph (b) to read as follows:

**§ 180.515 Carfentrazone-ethyl; tolerances for residues.**

* * * * *

(b) * * *

| Commodity | Parts per million | Expiration/revocation date |
|---|---|---|
| Hop, dried cones | 0.30 | 6/30/03 |

| Commodity | Parts per million | Expiration/revocation date |
|---|---|---|
| * | * * * * | * * |

* * * * *

[FR Doc. 01–19173 Filed 7–31–01; 8:45 am]

**BILLING CODE 6560–50–S**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

**[OPP–301145; FRL–6788–6]**

**RIN 2070–[AB78]**

## Lysophosphatidylethanolamine (LPE); Temporary Exemption From the Requirement of a Tolerance

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a temporary exemption from the requirement of a tolerance for residues of the Lysophosphatidylethanolamine (LPE), also known as phospholipid and lyso-PE on blueberries, cherries, peppers when applied/used to enhance ripening and shelf life. Nutra-Park Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996 requesting the temporary tolerance exemption. This regulation eliminates the need to establish a maximum permissible level for residues of LPE. The temporary tolerance exemption will expire on June 1, 2003.

**DATES:** This regulation is effective August 1, 2001. Objections and requests for hearings, identified by docket control number OPP–301145, must be received by EPA on or before October 1, 2001.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VIII. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301145 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Carol E. Frazer, c/o Product Manager (PM) 90, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8810; and e-mail address: frazer.carol@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

| Categories | NAICS codes | Examples of Potentially Affected Entities |
|---|---|---|
| Industry | 111<br>112<br>311<br>32532 | Crop production<br>Animal production<br>Food manufacturing<br>Pesticide manufacturing |

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?*

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'', ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301145. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

### II. Background and Statutory Findings

In the **Federal Register** of May 2, 2001 (66 FR 21973) (FRL–6762–8), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act (FQPA) (Public Law 104–170) announcing the filing of a pesticide tolerance petition (PP 0G6222) by Nutra-Park Inc., 3230 Deming Way, Suite 125, Middleton, WI 53562. This notice included a summary of the petition prepared by the petitioner Nutra-Park Inc. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR part 180 be amended by establishing a temporary exemption from the requirement of a tolerance for residues of lysophosphatidylethanolamine.

New section 408(c)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) defines ''safe '' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and

children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....'' Additionally, section 408(b)(2)(D) requires that the Agency consider ''available information concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

**III. Toxicological Profile**

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Waivers for toxicology studies have been requested for LPE. Phospholipid is a fat found in food consumed by humans and animals, and, is non-toxic to humans and animals. Sufficient data exist to assess the hazards of LPE and to make a determination on aggregate exposure, consistent with section 408(c)(2), for the exemptions from the requirement of a tolerance. The exposures, including dietary exposure, and risks associated with establishing the requested exemption from the requirement of a tolerance follows.

Phospholipid is present in all cells in all organisms. It is part of the cell membranes. Lysophosphatidylethanolamine (a specific phospholipid) is present in high quantities in food products containing egg yolk and meat. In dried egg yolk, LPE constitutes 2% of the fat present. Egg solids are widely used in food products. In the USA, about 18 billion eggs are broken per year to produce egg white and egg solids for human comsumption and because of this, all acute toxicity, genotoxicity, and subchronic toxicity studies normally required for biochemical pesticides are waived.

**IV. Aggregate Exposures**

In examining aggregate exposure, section 408 of the FFDCA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

*A. Dietary Exposure*

Phospholipid is present in all cells in all organisms. It is a part of the cell membrane. Phospholipid is present in high quantities in food products containing egg yolk and meat.

1. *Food*. It is anticipated that residues of LPE will be negligible in treated raw agricultural commodities. Due to the product's lack of mammalian toxicity, exposure to this product will not be harmful to humans.

2. *Drinking water exposure*. It is not anticipated that residues of LPE will occur in drinking water.

*B. Other Non-Occupational Exposure*

Nutra-Park Inc. is not aware of any non-dietary exposures.

**V. Cumulative Effects**

There is no anticipated potential for cumulative effects of LPE since it does not have a mode of toxicity. No cumulative effects are expected with other substances.

**VI. Determination of Safety for U.S. Population, Infants and Children**

1. *U.S. population.* The lack of toxicity of LPE is demonstrated by the above summary. Based on this information, the aggregate exposure to LPE over a lifetime should not pose appreciable risks to human health. There is a reasonable certainty that no harm will result from aggregate exposure to LPE residues. Exempting LPE from the requirement of a temporary tolerance should be considered safe and pose insignificant risk.

Egg solids are widely used in food products. In dried egg yolk, 2% of the lipids are LPE.

2. *Infants and children.* Egg yolks are used in a variety of food including baby food and infant formula. LPE is also present in human breast milk. There is a reasonable certainty that no harm will result to infants and children from aggregate exposure to LPE residues.

**VII. Other Considerations**

*A. Codex Maximum Residue Level*

A temporary tolerance exemption on apples, citrus, cranberries, grapes, nectarines, peaches, pears, strawberries and tomatoes in conjunction with Experimental Use Permits for lysophosphatidylethanolamine was previously established (63 FR 32131; June 12, 1998) and has been extended until June 2003.

**VIII. Objections and Hearing Requests**

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

*A. What Do I Need to Do to File an Objection or Request a Hearing?*

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301145 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before October 1, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in

40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment*. If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VIII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301145, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

*B. When Will the Agency Grant a Request for a Hearing?*

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

## IX. Regulatory Assessment Requirements

This final rule establishes a temporary exemption from the tolerance requirement under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq*., or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the temporary exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq*.) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the

distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.''

**X. Submission to Congress and the Comptroller General**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule '' as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 6, 2001,

**Anne E. Lindsay,**

*Acting Director, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.1199 is revised to read as follows:

**§ 180.1199 Lysophosphatidylethanolamine (LPE); temporary exemption from the requirement of a tolerance.**

The phospholipid biochemical LPE (lysophosphatidylethanolamine); is temporarily exempted from the requirement of a tolerance for residues when used on crops including: apples, blueberries, cherries, citrus, cranberries, grapes, nectarines, peaches, pears, peppers, strawberries and tomatoes. This temporary exemption from the requirement for a tolerance will permit the marketing of the food commodities in this paragraph when treated in accordance with the provisions of experimental use permit 70515-EUP-1, which was issued under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136). This temporary exemption from the requirement of a tolerance expires and is revoked on June 1, 2003. This temporary exemption from the requirement for a tolerance may be revoked at any time if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that the tolerance is not safe.

[FR Doc. 01–18652 Filed 7–31–01; 8:45am]

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–301154; FRL–6793–1]**

**RIN 2070–AB78**

## Sulfentrazone; Pesticide Tolerances for Emergency Exemptions

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes time-limited tolerances for combined residues of sulfentrazone, *N*-[2,4-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1*H*-1,2,4-triazol-1-yl]phenyl]methanesulfonamide, and its metabolites 3-hydroxymethyl sulfentrazone (HMS) and 3-desmethyl sulfentrazone (DMS) in or on chickpea seed, dried pea seed, and strawberry. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on chickpea, dried pea, and strawberry. This regulation establishes a maximum permissible level for combined residues of sulfentrazone in these food commodities. These tolerances will expire and are revoked on December 31, 2004.

**DATES:** This regulation is effective August 1, 2001. Objections and requests for hearings, identified by docket control number OPP–301154, must be received by EPA on or before October 1, 2001.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301154 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** Meredith Laws, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9366; and e-mail address: laws.meredith@epa.gov.

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this Action Apply to Me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

| Categories | NAICS codes | Examples of potentially affected entities |
|---|---|---|
| Industry | 111<br>112<br>311<br><br>32532 | Crop production<br>Animal production<br>Food manufacturing<br>Pesticide manufacturing |

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?*

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/

cfrhtml_00/Title_40/40cfr180._00.html, a beta site currently under development.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301154. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

## II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408 (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing tolerances for combined residues of the herbicide sulfentrazone, in or on chickpea seed at 0.10 part per million (ppm), dried pea seed at 0.10 ppm, and strawberry at 0.60 ppm. These tolerances will expire and are revoked on December 31, 2004. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

## III. Emergency Exemption for Sulfentrazone on Chickpea, Dried pea, and Strawberry and FFDCA Tolerances

Montana, North Dakota, and South Dakota submitted section 18 requests for the emergency use of sulfentrazone on chickpeas and dried peas to control wild buckwheat. EPA reviewed these requests and concluded that the situation was urgent and non-routine because there are no alternative herbicides available for control of wild buckwheat in low-or no-till production systems, which were adopted to comply with farm legislation.

Oregon and Washington submitted section 18 requests for the emergency use of sulfentrazone on strawberries to control the following weeds: Common groundsel, common lambsquarter, redroot pigweed, prostate knotweed, smartweed, corn spurrey, wild buckwheat, mayweed, pineappleweed, and shepardspurse. EPA reviewed these requests and concluded that the situation was urgent and non-routine because of the loss of oxyfluorfen under section 18 of FIFRA for weed control and a lack of control of broadleaf weeds with currently registered herbicides.

EPA has authorized under FIFRA section 18 the use of sulfentrazone on chickpeas and dried peas for control of wild buckwheat in Montana, North Dakota, and South Dakota, and on strawberries for control of broadleaf weeds in Oregon and Washington. After having reviewed these submissions, EPA concurs that emergency conditions exist for these States.

As part of its assessment of these emergency exemptions, EPA assessed the potential risks presented by combined residues of sulfentrazone in or on chickpea, dried pea, and strawberry. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemptions in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment as provided in section 408(l)(6). Although these tolerances will expire and are revoked on December 31, 2004, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on chickpea, dried pea, and strawberry after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these tolerances at the time of that application. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions, EPA has not made any decisions about whether sulfentrazone meets EPA's registration requirements for use on chickpea, dried pea, and strawberry or whether permanent tolerances for these uses would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of sulfentrazone by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any States other than Montana, North Dakota, and South Dakota to use this pesticide on chickpea and dried pea or Oregon and Washington to use this pesticide on strawberry under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemptions for sulfentrazone, contact the Agency's Registration Division at the address

provided under **FOR FURTHER INFORMATION CONTACT**.

## IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of sulfentrazone and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for combined residues of sulfentrazone in or on chickpea at 0.10 ppm, dried pea at 0.10 ppm, and strawberry at 0.60 ppm. EPA's assessment of the dietary exposures and risks associated with establishing these tolerances follows.

### *A. Toxicological Endpoints*

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as $1 \times 10^{-6}$ or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure ($MOE_{cancer}$ = point of departure/exposures) is calculated. A summary of the toxicological endpoints for sulfentrazone used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR SULFENTRAZONE FOR USE IN HUMAN RISK ASSESSMENT

| Exposure Scenario | Dose Used in Risk Assessment, UF | FQPA SF* and Level of Concern for Risk Assessment | Study and Toxicological Effects |
|---|---|---|---|
| Acute dietary (females 13-50 years of age) | NOAEL = 10.0 mg/kg/day<br>UF = 100<br>Acute RfD = 0.10 mg/kg/day | FQPA SF = 10<br>aPAD = acute RfD<br>FQPA SF = 0.01 mg/kg/day | Developmental Study in Rats<br>Developmental LOAEL = 25 mg/kg/day based on decreased fetal weight and retarded skeletal development as evidenced by an increased number of litters with any variation and by decreased numbers of caudal vertebral and metacarpal ossification sites. |
| Acute dietary (general population including infants and children) | NOAEL = 250 mg/kg/day<br>UF = 100<br>Acute RfD = 2.5 mg/kg/day | FQPA SF = 10<br>aPAD = acute RfD<br>FQPA SF = 0.25 mg/kg/day | Acute Neurotoxicity Study in Rats<br>LOAEL = 750 mg/kg/day based on increased incidences of clinical signs abdominal gripping, abdominogenital staining, and/or reddish-brown staining under the cage, FOB findings, and decreased motor activity which were reversed by day 14 post dose. |

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR SULFENTRAZONE FOR USE IN HUMAN RISK ASSESSMENT—Continued

| Exposure Scenario | Dose Used in Risk Assessment, UF | FQPA SF* and Level of Concern for Risk Assessment | Study and Toxicological Effects |
|---|---|---|---|
| Chronic dietary (all populations) | NOAEL= 14.0 mg/kg/day<br>UF = 100<br>Chronic RfD = 0.14 mg/kg/day | FQPA SF = 10<br>cPAD = chronic RfD<br>FQPA SF = 0.014 mg/kg/day | 2-Generation Reproduction Study in Rats<br>LOAEL = 33/44 mg/kg/day in males and females, respectively, based on: (1) Decreased maternal body weight and/or body weight gain during gestation in both P and $F_1$ generations, (2) reduced premating body weight gains in the second generation ($F_1$ adults), (3) increased duration of gestation in both $F_1$ and $F_2$ dams, (4) reduced prenatal viability (fetal and litter), (5) reduced litter size, (6) increased number of stillborn pups, (7) reduced pup and litter postnatal survival, and (8) decreased pup body weights throughout gestation. In males, effects included decreased fertility in $F_1$ generation and/or atrophy of the germinal epithelium of the testes, oligospermia and intratubular degeneration of the seminal product in the epididymis. |

* The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

*B. Exposure Assessment*

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.498) for the combined residues of sulfentrazone, in or on a variety of raw agricultural commodities. A permanent tolerance has been established for residues of sulfentrazone on soybean seed. Tolerances are established for inadvertent and indirect residues of sulfentrazone on cereal grains. Time-limited tolerances have been established on bean, lima (succulent seed without pod); cowpeas (w/out pod); horseradish, roots; sugarcane, cane; sunflower, seeds; and, sunflower, forage. These time-limited tolerances have an expiration date of December 31, 2002. Risk assessments were conducted by EPA to assess dietary exposures from sulfentrazone in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. The Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: Tolerance level residues and 100% crop treated information were used for all commodities (Tier 1). As the acute analyses were Tier 1 assessments, acute risk estimates are presented at the 95th percentile.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment, the DEEM™ analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: Tolerance level residues and 100% crop treated information were used for all commodities (Tier 1).

iii. *Cancer.* Sulfentrazone has been classified as a ''Group E'' chemical (not likely to be carcinogenic to humans via relevant routes of exposure). Therefore, no cancer risk assessment was performed.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for sulfentrazone in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of sulfentrazone.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and Screening Concentrations in Ground Water (SCI-GROW), which predicts pesticide concentrations in ground water. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water.

DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to sulfentrazone, they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI-GROW models, the EECs of sulfentrazone for acute exposures are estimated to be 16 parts per billion (ppb) for surface water and 16 ppb for ground water. The EECs for chronic exposures are estimated to be 4 ppb for surface water and 16 ppb for ground water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Sulfentrazone is not registered for use on any sites that would result in residential exposure.

4. *Cumulative exposure to substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether sulfentrazone has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, sulfentrazone does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that sulfentrazone has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

### *C. Safety Factor for Infants and Children*

1. *Safety factor for infants and children*—i. *In general*. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

ii. *Developmental toxicity studies*—a. *Rats*. In the oral developmental study in rats, the maternal (systemic) NOAEL was 25 mg/kg/day, based on increased spleen weights and splenic extramedullary hematopoiesis at the LOAEL of 50 mg/kg/day. The developmental (fetal) NOAEL was 10 mg/kg/day, based on decreased mean fetal weight and retardation in skeletal development as evidenced by increased numbers of litters with any variation and by decreased numbers of caudal vertebral and metacarpal ossification sites at the LOAEL of 25 mg/kg/day.

In the dermal developmental study in rats, the maternal (systemic) NOAEL was 250 mg/kg/day and a LOAEL was not determined. The developmental (fetal) NOAEL was 100 mg/kg/day, based on decreased fetal weight and increased fetal variations (hypoplastic or wavy ribs, incompletely ossified lumbar vertebral arches, incompletely ossified ischia or pubes, and reduced numbers of thoracic vertebral and rib ossification sites) at the LOAEL of 250 mg/kg/day.

b. *Rabbits*. In the oral developmental toxicity study in rabbits, the maternal (systemic) NOAEL was 100 mg/kg/day, based on increased abortions, clinical signs (decreased feces and hematuria), and reduced body weight gain during gestation at the LOAEL of 250 mg/kg/day. The developmental (pup) NOAEL was 100 mg/kg/day, based on increased resorptions, decreased live fetuses per litter, and decreased fetal weight at the LOAEL of 250 mg/kg/day.

iii. *Reproductive toxicity study—Rats*. In the 2-generation reproductive toxicity study in rats, the maternal (systemic) NOAEL was 14/16 mg/kg/day in males and females, respectively, based on decreased maternal body weight and/or body weight gain during gestation in both P and $F_1$ generations, and reduced premating body weight gains in the second generation ($F_1$ adults) at the LOAEL of 33/44 mg/kg/day for males and females, respectively. The developmental (pup) NOAEL was 14/16 mg/kg/day based on: (1) Reduced prenatal viability (fetal and litter); (2) reduced litter size; (3) increased number of stillborn pups; (4) reduced pup and litter postnatal survival; and (5) decreased pup body weights throughout lactation at the LOAEL of 33/44 mg/kg/day. The reproductive NOAEL was 14/16 mg/kg/day, based on (1) increased duration of gestation in both $F_1$ and $F_2$ dams, (2) decreased fertility in $F_1$ generation (males), and/or (3) atrophy of the germinal epithelium of the testes, oligospermia and intratubular degeneration of the seminal product in the epididymis at the LOAEL of 33/44 mg/kg/day.

iv. *Prenatal and postnatal sensitivity*. The toxicological data base for evaluating prenatal and postnatal toxicity for sulfentrazone is complete with respect to current data requirements. Based on the developmental and reproductive toxicity studies discussed above for sulfentrazone there appears to be prenatal and postnatal sensitivity.

v. *Conclusion*. There is a complete toxicity data base for sulfentrazone and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA determined that the 10X safety factor to protect infants and children should be retained. For acute dietary analysis, the FQPA safety factor was retained and is applicable to the U.S. population and all subgroups due to the increased susceptibility observed in the prenatal developmental studies. For chronic dietary analysis, the FQPA safety factor was retained and is applicable for all populations due to the qualitative increased susceptibility observed in the 2-generation reproduction study.

### *D. Aggregate Risks and Determination of Safety*

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water EECs. DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + chronic non-dietary, non-occupational exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water

are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: Acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, OPP concludes with reasonable certainty that exposures to sulfentrazone in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of sulfentrazone on drinking water as a part of the aggregate risk assessment process.

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to sulfentrazone will occupy < 1% of the aPAD for the U.S. population, 6% of the aPAD for females 13 years and older, <1% of the aPAD for all infants (<1 year old) and <1% of the aPAD for children (1-6 years old). In addition, despite the potential for acute dietary exposure to sulfentrazone in drinking water, after calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of sulfentrazone in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO SULFENTRAZONE

| Population Subgroup | aPAD (mg/kg) | %aPAD (Food) | Surface Water EEC (ppb) | Ground Water EEC (ppb) | Acute DWLOC (ppb) |
|---|---|---|---|---|---|
| Females, (13-50 years old) | 0.01 | 6 | 16 | 16 | 280 |
| U.S. population | 0.25 | <1 | 16 | 16 | 8,700 |
| Children (1-6 years old) and all infants (<1 year old) | 0.25 | <1 | 16 | 16 | 2,500 |

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to sulfentrazone from food will utilize 3% of the cPAD for the U.S. population, 5% of the cPAD for all infants (<1 year old) and 6% of the cPAD for children (1-6 years old). There are no residential uses for sulfentrazone that result in chronic residential exposure to sulfentrazone. In addition, despite the potential for chronic dietary exposure to sulfentrazone in drinking water, after calculating DWLOCs and comparing them to conservative model EECs of sulfentrazone in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO SULFENTRAZONE

| Population Subgroup | cPAD mg/kg/day | %cPAD (Food) | Surface Water EEC (ppb) | Ground Water EEC (ppb) | Chronic DWLOC (ppb) |
|---|---|---|---|---|---|
| U.S. population | 0.014 | 3 | 4.0 | 16 | 480 |
| Children (1-6 years old) | 0.014 | 6 | 4.0 | 16 | 130 |
| Females (13-50 years old) | 0.014 | 2 | 4.0 | 16 | 410 |
| All infants (< 1 year old) | 0.014 | 5 | 4.0 | 16 | 130 |

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Sulfentrazone is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which were previously addressed.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level).

Sulfentrazone is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which were previously addressed.

5. *Aggregate cancer risk for U.S. population*. Because sulfentrazone is not a carcinogen, a cancer aggregate risk assessment was not conducted.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to sulfentrazone residues.

## V. Other Considerations

### *A. Analytical Enforcement Methodology*

An analytical methodology for the determination of sulfentrazone, 3-desmethyl sulfentrazone, and 3-hydroxymethyl sulfentrazone residues in/on various matrices was submitted with a petition for a sulfentrazone tolerance on soybeans. A petition method validation (PMV) was successfully completed by the Agency's

Analytical Chemistry Laboratory. The Limit of Quantitation (LOQ) and Minimum Detection Limit (MDL) were determined to be 0.05 ppm and 0.005-0.025 ppm, respectively. EPA concluded that the method is suitable for enforcement purposes.

Adequate enforcement methodology is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

*B. International Residue Limits*

There are no Codex, Canadian, or Mexican residue limits established for sulfentrazone on chickpeas, dried peas, or strawberries. Therefore, no compatibility problems exist for the proposed tolerances.

*C. Conditions*

Rotational field trial data for wheat, corn, rice and sorghum were submitted in support of a petition for a sulfentrazone tolerance on soybeans. Permanent tolerances have been established on cereal grains (excluding sweet corn) when planted in rotation with the primary crop soybeans. The suggested rotational crop restrictions on the section 18 labels pertaining to these emergencies are the same as those on the label for soybeans. Therefore, additional rotational crop data are not necessary for this action.

**VI. Conclusion**

Therefore, tolerances are established for combined residues of sulfentrazone in or on chickpea seed at 0.10 ppm, dried pea seed at 0.10 ppm, and strawberry at 0.60 ppm.

**VII. Objections and Hearing Requests**

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

*A. What Do I Need to Do to File an Objection or Request a Hearing?*

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301154 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before October 1, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP–301154, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

*B. When Will the Agency Grant a Request for a Hearing?*

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

**VIII. Regulatory Assessment Requirements**

This final rule establishes time-limited tolerances under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under FFDCA section 408, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

**IX. Submission to Congress and the Comptroller General**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated:July 17, 2001.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

**PART 180—[AMENDED]**

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.498 is amended by revising the introductory text of paragraph (b) and by alphabetically adding the following commodities to the table in paragraph (b) to read as follows:

**§ 180.498 Sulfentrazone; tolerances for residues.**

(a) * * *

(b) *Section 18 emergency exemptions*. Time-limited tolerances are established for residues of the herbicide *N*-[2,4-dichloro-5-[4- (difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1*H*-1,2,4-triazol-1-y-l]phenyl] methanesulfonamide and its metabolites 3-hydroxymethyl sulfentrazone and 3-desmethyl sulfentrazone, in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. The tolerance is specified in the following table. The tolerances expire and will be revoked by EPA on the date specified in the table.

| Commodity | Parts per million | Expiration/Revocation Date |
|---|---|---|
| * * * * * * * | | |
| Chickpea, seed | 0.10 | 12/31/04 |
| * * * * * * * | | |
| Pea, dry, seed | 0.10 | 12/31/04 |
| Strawberry | 0.60 | 12/31/04 |

| Commodity | Parts per million | Expiration/Revocation Date |
|---|---|---|
| * * * * * * * | | |

* * * * *

[FR Doc. 01–19168 Filed 7–31–01; 8:45 am]

BILLING CODE 6560–50–S

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

**[OPP–301151; FRL–6792–5]**

**RIN 2070–AB78**

## Azoxystrobin; Pesticide Tolerances for Emergency Exemptions

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes time-limited tolerances for combined residues of azoxystrobin in or on chickpeas, lychees, and peppers. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on chickpeas, lychees, and peppers. This regulation establishes a maximum permissible level for residues of azoxystrobin in these food commodities. The tolerances will expire and are revoked on December 31, 2003.

**DATES:** This regulation is effective August 1, 2001. Objections and requests for hearings, identified by docket control number OPP–301151, must be received by EPA on or before October 1, 2001.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301151 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** Libby Pemberton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9364; and e-mail address: pemberton.libby@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

| Categories | NAICS codes | Examples of potentially affected entities |
|---|---|---|
| Industry | 111<br>112<br>311<br><br>32532 | Crop production<br>Animal production<br>Food manufacturing<br>Pesticide manufacturing |

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?*

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180._00.html, a beta site currently under development.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301151. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

### II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing tolerances for combined residues of the fungicide azoxystrobin, [methyl(*E*)-2-(2-(6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl)-3-methoxyacrylate] and the Z-isomer of azoxystrobin, methyl[(*Z*)-2-(2-(6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl)-3 methoxyacrylate], in or on chickpeas, lychees, and peppers at 0.5, 3, and 2 part per million (ppm), respectively. These tolerances will expire and are revoked on December 31, 2003. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its

actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

## III. Emergency Exemptions for Azoxystrobin on Chickpeas, Lychees, and Peppers and FFDCA Tolerances

Idaho and Washington indicate that when outbreaks of Ascochyta blight are discovered in the field, the only alternative with curative activity is azoxystrobin. Severe epidemics have resulted in yield losses of up to 50%. Although seed treatment prevents some appearance of disease in the seed it does not stop that passed on by spores in the field residue. Resistant varieties have the ability to reduce the effect of the disease but not to prevent the production of spores and spread of disease. Wet weather during the growing season and possible frost injury to chickpea fields in May have made the crop vulnerable to growth of the disease. Virginia indicates that registered alternatives do not provide commercially acceptable disease control of anthracnose on peppers. Several major Virginia pepper producers had losses of 70% in 2000. EPA has authorized under FIFRA section 18 the use of azoxystrobin on chickpeas and peppers for control of ascochyta blight and anthracnose in Idaho, Washington and Virginia. After having reviewed the submissions, EPA concurs that emergency conditions exist for these States. In addition, Florida issued a crisis exemption for the use of azoxystrobin to control anthracnose on lychees.

As part of its assessment of these emergency exemptions, EPA assessed the potential risks presented by residues of azoxystrobin in or on chickpeas, lychees, and peppers. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemptions in order to address an urgent non-routine situation and to ensure that the resulting foods are safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment as provided in section 408(l)(6). Although these tolerances will expire and are revoked on December 31, 2003, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on chickpeas, lychees, and peppers after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed the level that was authorized by these tolerances at the time of that application. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions, EPA has not made any decisions about whether azoxystrobin meets EPA's registration requirements for use on chickpeas, lychees, and peppers or whether permanent tolerances for these uses would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of azoxystrobin by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any State other than Idaho, Washington, Florida, and Virginia to use this pesticide on these crops under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemptions for azoxystrobin, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

## IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of azoxystrobin and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for combined residues of azoxystrobin and its *Z*-isomer in or on chickpeas, lychees, and peppers at 0.5, 3, and 2 ppm, respectively. EPA's assessment of the dietary exposures and risks associated with establishing these tolerances follows.

### *A. Toxicological Endpoints*

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences. An additional UF of 3X was added to account for a lack of NOAEL for acute dietary assessments.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/

UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as $1 \times 10^{-6}$ or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure ($MOE_{cancer}$ = point of departure/exposures) is calculated. A summary of the toxicological endpoints for azoxystrobin used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR AZOXYSTROBIN FOR USE IN HUMAN RISK ASSESSMENT

| Exposure Scenario | Dose Used in Risk Assessment, UF | FQPA SF* and Level of Concern for Risk Assessment | Study and Toxicological Effects |
|---|---|---|---|
| Acute dietary general population including infants and children | NOAEL <200 mg/kg/day<br>UF = 300<br>Acute RfD = 0.67 mg/kg/day | FQPA SF = 1X<br>aPAD = acute RfD<br>FQPA SF = 0.67 mg/kg/day | Acute Neurotoxicity - Rat (MRID 43678134, 44182013, 44182015) LOAEL = 200 mg/kg based on diarrhea at 2 hours post dose at all dose levels up to and including the LOAEL. |
| Chronic dietary all populations | NOAEL = 18 mg//kg/day<br>UF = 100<br>Chronic RfD = 0.18 mg/kg/day | FQPA SF = 1X<br>cPAD = chronic RfD<br>FQPA SF = 0.18 mg/kg/day | Combined Chronic Toxicity/Carcinogenicity Feeding Study - Rat (MRID 43678139) LOAEL in males/females = 34/117 mg/kg/day based on reduced body weights in both sexes and bile duct lesions in males. |
| Short-term (1-7 days) incidental oral (Residential) | NOAEL= 25 mg/kg/day UF = 100 | FQPA SF = 1X | Prenatal Developmental Oral Toxicity - Rat (MRID 43678142) LOAEL = 100 mg/kg/day based on increased maternal diarrhea, urinary incontinence, and salivation. |
| Intermediate-term (1 week to several months) incidental oral (Residential) | NOAEL = 20 mg//kg/day<br>UF = 100 | FQPA SF = 1X | 90-Day Feeding - Rat (MRID 43678135) LOAEL = 211/223 mg/kg/day in males/females based on decreased body weight gain in both sexes and clinical signs indicative of reduced nutrition. |
| Short-, intermediate-, and long-term dermal (Occupational/Residential) | none | No dermal or systemic toxicity was seen at the limit dose (1,000 mg/kg/day). This risk assessment is not required. | 21-Day Repeated Dose Dermal - Rat (MRID 43678137) |
| Short-term (1-7 days) inhalation (Occupational/Residential) | Oral NOAEL= 25 mg/kg/day<br>Use route-to-route extrapolation (inhalation absorption rate = 100%) | LOC for MOE = 100 (Occupational/Residential) | Prenatal Developmental Oral Toxicity - Rat (MRID 43678142) LOAEL = 100 mg/kg/day based on increased maternal diarrhea, urinary incontinence, and salivation. |
| Intermediate-term (1 week to several months) inhalation (Occupational/Residential) | Oral NOAEL= 20 mg/kg/day<br>Use route-to-route extrapolation (inhalation absorption rate = 100%) | LOC for MOE = 100 (Occupational/Residential) | 90-Day Feeding - Rat (MRID 43678135) LOAEL = 211/223 mg/kg/day in males/females based on decreased body weight gain in both sexes and clinical signs indicative of reduced nutrition. |
| Long-term (> 180 days) inhalation | NOAEL = N/A | This risk assessment is not applicable to the use scenario of azoxystrobin. | |

* The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

*B. Exposure Assessment*

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.180.507) for the combined residues of azoxystrobin and its *Z*-isomer, in or on a variety of raw agricultural commodities and for residues of azoxystrobin (only) in animal commodities. Tolerances are established on agricultural commodities at levels ranging from 0.01 ppm to 55.0 ppm; on meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at levels ranging from 0.01 ppm to 0.07 ppm; and on milk at 0.006 ppm. Time-limited tolerances range from 0.1 ppm in soybeans to 30 ppm in spinach. Risk assessments were conducted by EPA to assess dietary exposures from azoxystrobin in food as follows:

i. *Acute exposure*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. The Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992–nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: In conducting this acute dietary exposure analysis, EPA has made very conservative assumptions: all commodities having established or proposed azoxystrobin tolerances will contain azoxystrobin residues (i.e., 100% crop treated), and those residues will be at the level of the tolerance.

ii. *Chronic exposure*. In conducting this chronic dietary risk assessment the DEEM™ analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: In conducting this chronic dietary exposure analysis, EPA has made very conservative assumptions: all commodities having established or proposed azoxystrobin tolerances will contain azoxystrobin residues (i.e., 100% crop treated), and those residues will be at the level of the tolerance.

iii. *Cancer*. Azoxystrobin has been classified as ''not likely'' to be a human carcinogen. Therefore, a dietary cancer exposure analysis was not conducted.

2. *Dietary exposure from drinking water*. The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and Screening Concentrations in Ground Water (SCI-GROW), which predicts pesticide concentrations in ground water. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead, drinking water levels of comparison (DWLOC) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and from residential uses. Since DWLOCs address total aggregate exposure to azoxystrobin, they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI-GROW models, the EECs of azoxystrobin for acute exposures are estimated to be 141 parts per billion (ppb) for surface water and 0.064 ppb for ground water. The EECs for chronic exposures are estimated to be 42 ppb for surface water and 0.064 ppb for ground water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Azoxystrobin is currently registered for use on the following residential non-dietary sites: Ornamental turf. The risk assessment was conducted using the following exposure assumptions: Short- and intermediate-term exposure may occur for residential adult handlers (inhalation) and for postapplication children (incidental ingestion) activities.

4. *Cumulative exposure to substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether azoxystrobin has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, azoxystrobin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that azoxystrobin has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

*C. Safety Factor for Infants and Children*

1. *In general*. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity*. The developmental and reproductive toxicity data, from a Prenatal Developmental Study in Rats, a Prenatal

Development Study in Rabbits, and a Two-Generation Reproductive Toxicity Study in Rats, did not indicate increased susceptibility of young rats or rabbits to *in utero* and/or postnatal exposure.

3. *Conclusion*. There is a complete toxicity data base for azoxystrobin and exposure data are complete or are estimated based on data that reasonably account for potential exposures. The Agency has determined that the 10X FQPA safety factor to protect infants and children should be removed (that is, set to 1) because, in addition to the completeness of the toxicological database and the lack of increased susceptibility of young rats and rabbits to prenatal and postnatal exposure to azoxystrobin, the unrefined chronic dietary exposure estimates will overestimate dietary exposure, and ground and surface water modeling data produce upper-bound concentration estimates.

*D. Aggregate Risks and Determination of Safety*

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + chronic non-dietary, non-occupational exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to azoxystrobin in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of azoxystrobin on drinking water as a part of the aggregate risk assessment process.

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to azoxystrobin will occupy 11% of the aPAD for the U.S. population, 11% of the aPAD for females 13 years and older, 7% of the aPAD for infants less than 1 year and 20% of the aPAD for children 1-6 years. In addition, despite the potential for acute dietary exposure to azoxystrobin in drinking water, after calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of azoxystrobin in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO AZOXYSTROBIN

| Population Subgroup | aPAD (mg/kg) | %aPAD (Food) | Surface Water EEC (ppb) | Ground Water EEC (ppb) | Acute DWLOC (ppb) |
|---|---|---|---|---|---|
| U.S. population (total) | 0.67 | 11 | 141 | 0.064 | $2.1 \times 10^4$ |
| All infants (<1 year) | 0.67 | 7 | 141 | 0.64 | $5.4 \times 10^3$ |
| Females 13-50 years | 0.67 | 11 | 141 | 0.64 | $1.8 \times 10^4$ |
| Children 1-6 years | 0.67 | 20 | 141 | 0.64 | $5.4 \times 10^3$ |

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to azoxystrobin from food will utilize 12% of the cPAD for the U.S. population, 9.5% of the cPAD for all infants < 1 year, and 19% of the cPAD for children 1-6 years. Based the use pattern, chronic residential exposure to residues of azoxystrobin is not expected. In addition, despite the potential for chronic dietary exposure to azoxystrobin in drinking water, after calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of azoxystrobin in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO AZOXYSTROBIN

| Population Subgroup | Chronic PAD (mg/kg/day) | %cPAD (Food) | Ground water EEC (ppb) | Surface Water EEC (ppb) | Chronic DWLOC ppb |
|---|---|---|---|---|---|
| U.S. population (total) | 0.18 | 12 | 0.064 | 42 | $6.6 \times 10^3$ |
| Children 1-6 years (<1 year) | 0.18 | 19 | 0.064 | 42 | $1.5.4 \times 10^3$ |
| Females 13-50 years | 0.18 | 11 | 0.064 | 42 | $4.8 \times 10^3$ |

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO AZOXYSTROBIN—Continued

| Population Subgroup | Chronic PAD (mg/kg/day) | %cPAD (Food) | Ground water EEC (ppb) | Surface Water EEC (ppb) | Chronic DWLOC ppb |
|---|---|---|---|---|---|
| Infants (<1 year) | 0.18 | 9.5 | 0.064 | 42 | $1.5 \times 10^3$ |

3. *Short-term risk*. Short-term aggregate exposure takes into account chronic dietary food and water exposure (considered to be a background exposure level). Azoxystrobin is currently registered for use(s) that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for azoxystrobin.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 1,200 for the U.S. population and 520 for the subgroup children 1-6 years old. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of azoxystrobin in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO AZOXYSTROBIN

| Population Subgroup | Aggregate MOE (Food + Residential) | Aggregate Level of Concern (LOC) | Surface Water EEC (ppb) | Ground Water EEC (ppb) | Short-Term DWLOC (ppb) |
|---|---|---|---|---|---|
| U.S. population | 1,200 | 100 | 42 | 0.064 | $6.9 \times 10^3$ |
| Children 1-6 years old | 520 | 100 | 42 | 0.064 | $2.0 \times 10^3$ |

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level).

Azoxystrobin is currently registered for use(s) that could result in intermediate-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and intermediate-term exposures for azoxystrobin.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate an MOE of 420 for the subgroup children 1-6 years old. This aggregate MOE does not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, an intermediate-term DWLOC was calculated and compared to the EECs for chronic exposure of azoxystrobin in ground water and surface water. After calculating the DWLOC and comparing it to the EECs for surface and ground water, EPA does not expect intermediate-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 5:

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR INTERMEDIATE-TERM EXPOSURE TO AZOXYSTROBIN

| Population Subgroup | Aggregate MOE (Food + Residential) | Aggregate Level of Concern (LOC) | Surface Water EEC (ppb) | Ground Water EEC (ppb) | Intermediate-Term DWLOC (ppb) |
|---|---|---|---|---|---|
| Children (1-6 years old) | 420 | 100 | 42 | 0.064 | $1.5 \times 10^3$ |

5. *Aggregate cancer risk for U.S. population*. Azoxystrobin has been classified as ''not likely'' to be a human carcinogen. Therefore, an aggregate cancer risk assessment for the U.S. population was not conducted.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to azoxystrobin residues.

## V. Other Considerations

### *A. Analytical Enforcement Methodology*

Adequate enforcement methodology (RAM 243, GLC/NPD) (MRID 44595105) is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

### *B. International Residue Limits*

There are no CODEX, Canadian, or Mexican Maximum Residue Limits (MRL) for azoxystrobin on chickpeas, lychees, or peppers.

## VI. Conclusion

Therefore, tolerances are established for combined residues of azoxystrobin, methyl(*E*)-2-(2-(6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl)-3-methoxyacrylate and the *Z*-isomer of azoxystrobin, methyl(*Z*)-2-(2-(6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl)-3 methoxyacrylate, in or

on chickpeas, lychees, peppers at 0.5, 3, and 2 ppm, respectively.

## VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

### *A. What Do I Need to Do to File an Objection or Request a Hearing?*

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301151 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before October 1, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP–301151, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

### *B. When Will the Agency Grant a Request for a Hearing?*

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

## VIII. Regulatory Assessment Requirements

This final rule establishes time-limited tolerances under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 petition under FFDCA section 408, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action

will not have a substantial direct effect on 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, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

### IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 13, 2001.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.507 is amended by alphabetically adding commodities to the table in paragraph (b) to read as follows:

**§ 180.507 Azoxystrobin; tolerances for residues.**

(a) * * *

(b) * * *

| Commodity | Parts per million | Expiration/Revocation Date |
|---|---|---|
| * * * * * * * | | |
| Chickpea | 0.5 | 12/31/03 |
| * * * * * * * | | |
| Lychee | 3.0 | 12/31/03 |
| * * * * * * * | | |
| Pepper | 2.0 | 12/31/03 |
| * * * * * * * | | |

* * * * *

[FR Doc. 01–19167 Filed 7–31–01; 8:45 am]

**BILLING CODE 6560–50–S**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

**[OPP–301139; FRL–6787–5]**

**RIN 2070–AB78**

### Clomazone; Pesticide Tolerance

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a tolerance for residues of clomazone, 2-(2-chlorophenyl)methyl-4, 4-methyl-3-isoxazolidinone in or on Sugar cane, cane. FMC Corporation requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

**DATES:** This regulation is effective August 1, 2001. Objections and requests for hearings, identified by docket control number OPP–301139, must be received by EPA on or before October 1, 2001.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301139 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Jim Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: (703) 305–5697; and e-mail address: tompkins.jim@epa.gov.

**SUPPLEMENTARY INFORMATION:**

## I. General Information

*A. Does this Action Apply to Me?*

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

| Categories | NAICS codes | Examples of Potentially Affected Entities |
|---|---|---|
| Industry | 111<br>112<br>311<br>32532 | Crop production<br>Animal production<br>Food manufacturing<br>Pesticide manufacturing |

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?*

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'', ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301139. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

## II. Background and Statutory Findings

In the **Federal Register** of March 28, 2001 (66 FR 16917) (FRL–6775–4), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP) 9F06056 by FMC Corporation, Agricultural Products Group, 1735 Market Street, Philadelphia, PA, 19103. This notice included a summary of the petition prepared by FMC Corporation, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.425 be amended by establishing a tolerance for residues of the herbicide clomazone, 2-(2-chlorophenyl)methyl-4, 4-methyl-3-isoxazolidinone, in or on Sugar cane, cane at 0.05 part per million (ppm).

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

## III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for residues of clomazone on Sugar cane, cane at 0.05 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

*A. Toxicological Profile*

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by clomazone are discussed in the following Table 1 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

| Guideline No. | Study Type | Classification/Doses | Results |
|---|---|---|---|
| 870.3100 | 90–Day oral toxicity rat | Acceptable/guideline; Males: 0, 1.4, 6.9, 34.5, 68.2, 135.2, 273, 552.2 mg/kg/day; Females: 0, 1.6, 8.2, 41.9, 83.4, 160.9, 319.3, 629.4 mg/kg/day | NOAEL = 135.2/160.9 mg/kg/day, males/females; LOAEL = 273/319.3 mg/kg/day, males/females, based on decreased body weight, body weight gains, food consumption and increased absolute and relative liver weights in females and increased absolute liver weights in males. |
| 870.3100 | 90–Day oral toxicity mouse | Acceptable/guideline; 0, 3, 15, 75, 150, 300, 600, 1200 mg/kg/day | NOAEL ≥1200 mg/kg/day (limit dose); LOAEL >1200 mg/kg/day |
| 870.3700a | Prenatal developmental rat | Acceptable/guideline; 0, 100, 300, 600 mg/kg/day (gavage) | Maternal NOAEL = 100 mg/kg/day; LOAEL = 300 mg/kg/day based on chromorhinorrhea and/or abdominogenital staining.<br>Developmental NOAEL = 100 mg/kg/day; LOAEL = 300 mg/kg/day based on indications of delayed ossification in the form of either partial ossification or the absence of manubrium, sternebrae 3–4, xiphoid, caudal, and met-carpals. |
| 870.3700b | Prenatal developmental rabbit | Acceptable/guideline; 0, 30, 240, 1000/700 mg/kg/day | Maternal NOAEL = 240 mg/kg/day; LOAEL = 700 mg/kg/day based on effects seen at 1000 mg/kg/day, which included mortality, abortions, decreased body wt. gain, and decreased defecation or no feces.<br>Developmental NOAEL ≥700 mg/kg/day (HDT); LOAEL >700 mg/kg/day |
| 870.3800 | 2–Generation reproduction and fertility effects rat | Acceptable/guideline; 0, 5, 50, 100, 200 mg/kg/day | Parental NOAEL = 50 mg/kg/day; LOAEL = 100 mg/kg/day based on statistically significantly decreased body wt. & body wt. gain during premating, and decreased body wt. during gestation & lactation M & F. In addition decreased food consumption in females and hydro-nephritic kidneys in males.<br>Offspring NOAEL = 50 mg/kg/day; LOAEL = 100 mg/kg/day based on decreased body weight in F2a and F2b litters. |
| 870.4100b | Chronic toxicity dogs | Acceptable/guideline; Males: 0, 19, 94, 487, 1038 mg/kg/day Females: 0, 21, 106, 502, 1012 mg/kg/day | NOAEL ≥1038/1012 mg/kg/day, males/females (HDT); LOAEL >1038/1012 mg/kg/day |
| 870.4300 | Chronic Toxicity/Carcinogenicity rats | Acceptable/guideline; Males: 0, 0.9, 4.3, 21.5, 42.9, 84.8 mg/kg/day; Females: 0, 1.1, 5.5, 27.8, 56.5, 112.9 mg/kg/day | NOAEL = 84.4/112.9 mg/kg/day, males/females (highest dose tested); LOAEL >84.4/112.9 mg/kg/day, males/females; Classified as a ''not likely human carcinogen'' |
| 870.4300 | Carcinogenicity mice | Unacceptable/guideline; 0, 3, 15, 75, 150, 300 mg/kg/day | NOAEL = 300 mg/kg/day (highest dose tested); LOAEL = >300 mg/kg/day; Classified as a ''not likely human carcinogen'' |
| 870.5100 | Gene Mutation (*Salmonella typhimurium* and *Escherichia coli* reverse gene mutation assay) | Acceptable; FMC 57020; (clomazone, 93.4% a.i.) | The test article was assayed up to cytotoxic concentrations (5000 μg/plate), but in no instance were appreciably increased number of revertants to histidine prototrophy (his+) found in any of the tester strains, either in the presence or absence of metabolic activation. |

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

| Guideline No. | Study Type | Classification/Doses | Results |
|---|---|---|---|
| 870.5395 | Cytogenetics; *In vivo* rat | Acceptable; FMC 57020; (clomazone, 88.8%) | Negative. The incidence of aberrations and the aberrations/cell were not significantly increased. |
| 870.5550 | Other Effects *In vitro* UDS assay in primary rat hepatocytes | Acceptable; FMC 57020; (clomazone, 88.8%) | Clomazone was tested up to cytotoxicity (relative toxicity at 0.10 μL/mL was 88.6%), but in no cultures treated with test article was a significant increase in mean net nuclear counts indicative of UDS recorded. |
| 870.7485 | Metabolism and pharmacokinetics | Acceptable | Clomazone is extensively metabolized by the liver and excreted in the urine and feces within 24 hours. Sixteen metabolites, including the parent, were identified; and the predominant route of excretion was in urine. |

*B. Toxicological Endpoints*

The dose at which the NOAEL from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the LOAEL is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as $1 \times 10^{-6}$ or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure ($MOE_{cancer}$ = point of departure/exposures) is calculated. A summary of the toxicological endpoints for clomazone used for human risk assessment is shown in the following Table 2:

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR CLOMAZONE FOR USE IN HUMAN RISK ASSESSMENT

| Exposure Scenario | Dose Used in Risk Assessment, UF | FQPA SF and LOC for Risk Assessment | Study and Toxicological Effects |
|---|---|---|---|
| Acute Dietary (females 13–50 years of age) | Developmental NOAEL = 100 mg/kg/day UF = 100 Acute RfD = 1.0 mg/kg/day | FQPA SF = 1X aPAD = acute RfD÷FQPA SF = 1.0 mg/kg/day | Developmental toxicity Rat<br><br>Developmental LOAEL = 300 mg/kg/day, based on delayed ossification. |
| Acute Dietary general population including infants and children | A dose and endpoint were not selected for this population group because there were no effects observed in oral toxicology studies including maternal toxicity in the developmental toxicity studies in rats and rabbits that are attributable to a single exposure (dose). A risk assessment is not required for this population subgroup. | | |
| Chronic Dietary all populations | NOAEL = 84.4 mg/kg/day UF = 100 Chronic RfD = 0.84 mg/kg/day | FQPA SF = 1X cPAD = cRfD÷FQPA SF 0.84 mg/kg/day | Two year combined toxicity/carcinogenicity rat LOAEL > 84.4 mg/kg/day (highest dose tested) |

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR CLOMAZONE FOR USE IN HUMAN RISK ASSESSMENT—Continued

| Exposure Scenario | Dose Used in Risk Assessment, UF | FQPA SF and LOC for Risk Assessment | Study and Toxicological Effects |
|---|---|---|---|
| | | | 90–Day oral toxicity rat LOAEL = 319.3 mg/kg/day based on based on decreased body weight, body weight gains, food consumption and increased absolute and relative liver weights in females and increased absolute liver weights in males. |
| | | | 2–Generation reproduction toxicity rat LOAEL = 100 mg/kg/day based on statistically significantly decreased body wt. & body wt. gain during pre-mating, and decreased body wt. during gestation & lactation M & F. In addition decreased food consumption in females and hydro-nephritic kidneys in males. |
| Oral, Short-term (1–7 days) (Residential) | No residential uses. An endpoint was not proposed/selected. | | |
| Oral, Intermediate-term (1 week – several months) (Residential) | No residential uses. An endpoint was not proposed/selected. | | |
| Dermal[a] and Inhalation[b], Short-Term (1–7 days) (Occupational/Residential) | Maternal NOAEL= 100 mg/kg/day | LOC for MOE = 100 | Developmental toxicity rat Maternal LOAEL = 300 mg/kg/day, based on chromorhinorrhea and abdominogenital staining. |
| Dermal[a] and Inhalation[b], Intermediate-term (1week – several months) and Long-Term (several months - lifetime) (Occupational/Residential) | Oral NOAEL= 84.4 mg/kg/day | LOC for MOE = 100 | Two year combined toxicity/carcinogenicity rat LOAEL > 84.4 mg/kg/day (highest dose tested) |
| | | | 90–day oral toxicity ratLOAEL = 319.3 mg/kg/day based on based on decreased body weight, body weight gains, food consumption and increased absolute and relative liver weights in females and increased absolute liver weights in males |

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR CLOMAZONE FOR USE IN HUMAN RISK ASSESSMENT—Continued

| Exposure Scenario | Dose Used in Risk Assessment, UF | FQPA SF and LOC for Risk Assessment | Study and Toxicological Effects |
|---|---|---|---|
| | | | 2–Generation reproduction toxicity ratLOAEL = 100 mg/kg/day based on statistically significantly decreased body wt. and body wt. gain during premating, and decreased body wt. during gestation & lactation M & F. In addition decreased food consumption in females and hydro-nephritic kidneys in males. |

UF = uncertainty factor, FQPA SF = FQPA safety factor, NOAEL = no observed adverse effect level, LOAEL = lowest observed adverse effect level, PAD = population adjusted dose (a = acute, c = chronic) RfD = reference dose, MOE = margin of exposure, LOC = level of concern

[a] Since an oral NOAEL was selected, an dermal absorption factor of 100% (default value) should be used in route -to- route extrapolation.

[b] Since an oral NOAEL was selected, an inhalation absorption factor of 100% (default value) should be used in route-to-route extrapolation.

* The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

*C. Exposure Assessment*

1. *Dietary exposure from food and feed uses*. Tolerances have been established (40 CFR 180.425) for the residues of clomazone, in or on a variety of raw agricultural commodities. Risk assessments were conducted by EPA to assess dietary exposures from clomazone in food as follows:

i. *Acute exposure*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: An acute analysis was performed for females 13–50 years old using existing and recommended tolerance level residues, 100% crop treated information, DEEM® processing factors for all registered and proposed commodities.

ii. *Chronic exposure*. In conducting this chronic dietary risk assessment the DEEM® analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: The chronic analysis was performed for the general U.S. population and all population subgroups using existing and recommended tolrance level residues, 100% crop treated information, and DEEM® default processing factors for all registered and proposed commodities.

iii. *Cancer*. Clomazone is classified as ''not likely'' to be a human carcinogen.

iv. *Anticipated residue and percent crop treated information*. Section 408(b)(2)(E) authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E), EPA will issue a data call-in for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

The Agency used percent crop treated (PCT) information as follows:

A routine chronic dietary exposure analysis for the wheat hybridizing agent X was based on 0.1% of wheat crop treated, and 0.1% of the cereal grains group (except rice, wild rice, sweet corn, and wheat) and soybeans as rotated crops in fields previously containing wheat treated with chemical X. The PCT of 0.1% was based on the petitioner's expectations that up to 35,000 acres of wheat grown for seed will be treated annually, which amounts to 0.05% of the 70 million acres of wheat grown in the United States. The reason for using 0.1% instead of 0.05% is to allow expansion of use if other conditions of registration are satisfied. Before expansion beyond 0.1% is allowed, reevaluation of the dietary exposure may be performed using all available information.

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for clomazone in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of clomazone.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in groundwater. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for

the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to clomazone they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI-GROW models the estimated environmental concentrations (EECs) of clomazone for acute exposures are estimated to be 95 parts per billion (ppb) for surface water and 2.4 ppb for ground water. The EECs for chronic exposures are estimated to be 23 ppb for surface water and 2.4 ppb for ground water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Clomazone is not registered for use on any sites that would result in residential exposure.

4. *Cumulative exposure to substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether clomazone has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, clomazone does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that clomazone has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

*D. Safety Factor for Infants and Children*

1. *In general*. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity*. There is no quantitative or qualitative evidence of increased susceptibility of rats or rabbit fetuses to *in utero* exposure in developmental studies. Although there was a suggestion of susceptibility in the rat developmental study based on the presence of delayed ossification in the fetuses, EPA concluded that the fetal effects were no more severe than the maternal effects because: there is no dose response relationship for delayed ossification (i.e., absence of increased incidence with increase in dose); low fetal/litter incidences; delayed ossifications were not considered to be severe; and no visceral or skeletal malformations were seen.

3. *Conclusion*. There is a complete toxicity data base for clomazone and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA determined that the 10X safety factor to protect infants and children should be removed. The FQPA factor was reduced to 1X. The rationale was based on the following: there is no indication of quantitative or qualitative increased susceptibility of rats or rabbits to in utero and/or postnatal exposure; a developmental neurotoxicity study is not required; and the dietary (food and drinking water) exposure assessments will not underestimate the potential exposures for infants and children (there are currently no registered residential uses).

*E. Aggregate Risks and Determination of Safety*

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and groundwater are less than the calculated DWLOCs, OPP concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which the Office of Pesticide Programs (OPP) has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of residues of the pesticide in

drinking water as a part of the aggregate risk assessment process.

1. *Acute risk*. A Tier 1 acute dietary exposure analysis for clomazone was performed using existing and recommended tolerance level residues, 100% crop treated information, and DEEM® default processing factors. The acute analysis was performed for females 13–50 years old only. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to clomazone will occupy <1% of the aPAD for females 13 years and older at the 95th percentile. In addition, there is potential for acute dietary exposure to clomazone in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO CLOMAZONE

| Population Subgroup | aPAD (mg/kg) | % aPAD (Food) | Surface Water EEC (ppb) | Ground Water EEC (ppb) | Acute DWLOC (ppb) |
|---|---|---|---|---|---|
| Females 13–50 yrs old | 1 | 0.000265 | 95 | 2.4 | 30,000 |

2. *Chronic risk*. A Tier 1 chronic dietary exposure analysis for clomazone was performed using existing and proposed tolerance level residues, 100% crop treated for all commodities, and DEEM® default processing factors. The chronic analysis applied to the U.S. population and all population subgroups. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to clomazone from food will utilize <1% of the cPAD for the U.S. population, <1% of the cPAD for all infants (<1 years old) and <1% of the cPAD for children (1–6 years old). There are no residential uses for clomazone that result in chronic residential exposure to clomazone. In addition, there is potential for chronic dietary exposure to clomazone in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO CLOMAZONE

| Population Subgroup | cPAD mg/kg/day | % cPAD (Food) | Surface Water EEC (ppb) | Ground Water EEC (ppb) | Chronic DWLOC (ppb) |
|---|---|---|---|---|---|
| U.S. Population | 0.84 | 0.000099 | 23 | 2.4 | 29,000 |
| All infants (<1 year old) | 0.84 | 0.000332 | 23 | 2.4 | 8400 |
| Children (1–6 years old) | 0.84 | 0.000182 | 23 | 2.4 | 8400 |
| Children (7–12 years old) | 0.84 | 0.000122 | 23 | 2.4 | 8400 |
| Females (13–50 years old) | 0.84 | 0.000079 | 23 | 2.4 | 25,000 |
| Males (13–19 years old) | 0.84 | 0.000085 | 23 | 2.4 | 29,000 |
| Males (20+ years old) | 0.84 | 0.000080 | 23 | 2.4 | 29,000 |
| Seniors (55+ years old) | 0.84 | 0.000091 | 23 | 2.4 | 29,000 |

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Clomazone is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Clomazone is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population*. EPA has classified clomazone as a ''not likely'' to be a human carcinogen; therefore, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate risk exposure to clomazone residues.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to clomazone residues.

## IV. Other Considerations

### *A. Analytical Enforcement Methodology*

Adequate enforcement methods are available for the determination of the residues of clomazone. The resulting samples are analyzed by gas chromatography (GC) using a nitrogen phosphorus detector (NPD) or mass spectrometer (MS). A confirmatory procedure (GC/MS-SIM) is available (Method I, PAM II).

Clomazone residues were analysed using the FMC Method P-2640, virtually the same as the PAM-II enforcement method, modified to use gas chromatography/mass selective detection (GC-MSD) for extract analysis. Validation data indicate that this method is adequate to enforce the tolerance expression.

### *B. International Residue Limits*

There is neither a Codex proposal nor Canadian maximum residue limit (MRL) for residues of clomazone in/on Sugar cane. A Mexican MRL of 0.05 ppm is established for clomazone per se in/on Sugar cane. Therefore, a compatibility issue is not relevant to the proposed tolerance.

## V. Conclusion

Therefore, the tolerance is established for residues of clomazone, 2-(2-chlorophenyl)methyl-4, 4-methyl-3-isoxazolidinone, in or on Sugar cane, cane at 0.05 ppm.

## VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

### *A. What Do I Need to Do to File an Objection or Request a Hearing?*

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301139 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before October 1, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301139, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

### *B. When Will the Agency Grant a Request for a Hearing?*

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

## VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.''

### VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 10, 2001.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.425 is amended by alphabetically adding the commodity Sugar cane, cane, to the table in paragraph (a) to read as follows:

**§ 180.425 Clomazone; tolerance for residues.**

(a) * * *

| Commodity | Parts per million |
|---|---|
| * * * | * |
| * | * |
| Sugar cane, cane. | 0.05. |
| * * * | * |
| * | * |

* * * * *

[FR Doc. 01–19172 Filed 7–31–01; 8:45 am]

BILLING CODE 6560–50–S

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–301149; FRL–6790–9]**

**RIN 2070–AB78**

## Carfentrazone-ethyl; Pesticide Tolerance

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for combined residues of carfentrazone-ethyl in or on the caneberry subgroup and cotton. The Interregional Research Project Number 4 (IR-4) and FMC Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

**DATES:** This regulation is effective August 1, 2001. Objections and requests for hearings, identified by docket control number OPP–301149, must be received by EPA on or before October 1, 2001.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301149 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Shaja R. Brothers, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: (703)–308–3194; and e-mail address: brothers.shaja@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

| Categories | NAICS codes | Examples of Potentially Affected Entities |
|---|---|---|
| Industry | 111<br>112<br>311<br>32532 | Crop production<br>Animal production<br>Food manufacturing<br>Pesticide manufacturing |

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person

listed under **FOR FURTHER INFORMATION CONTACT.**

*B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?*

1. *Electronically.*You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301149. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

## II. Background and Statutory Findings

In the **Federal Register** of March 19, 2001 (66 FR 15459) (FRL–6766–8), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a as amended by the FQPA (Public Law 104–170) announcing the filing of a pesticide petition (PP 0E6183) for tolerance by IR-4, 681 US Highway #1 South, North Brunswick, NJ 08902–3390. This notice included a summary of the petition prepared by FMC Corporation, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.515 be amended by establishing a tolerance for combined residues of the herbicide carfentrazone-ethyl, (ethyl-alpha,-2-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]-4-fluorobenzenepropanoate), in or on the caneberry subgroup at 0.10 part per million (ppm).

In the **Federal Register** of April 12, 2001 (66 FR 18931) (FRL–6776–9), EPA issued a notice pursuant to section 408(d) of FFDCA, 21 U.S.C. 346a(d) as amended by the FQPA (Publilc Law 104–170) announcing the filing of a pesticide petition (PP 7F4795) for tolerance by FMC Corporation, Agricultural Products Group, 1735 Market Street, Philadelphia, PA 19103. This notice included a summary of the petition prepared by FMC Corporation, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR part 180 be amended by establishing a tolerance for residues of carfentrazone-ethyl (ethyl-alpha,-2-dichloro-5[-4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-l-yl]-4-fluorobenzene-propanoate) and the metabolite carfentrazone-ethyl chloropropionic acid (,2-dichloro-5[-4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]-4-fluorobenzenepropanoic acid) in or on the raw agricultural commodity (RAC) cotton at 3.5 parts per million (ppm).

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that'' there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

## III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for combined residues of carfentrazone-ethyl on the caneberry subgroup at 0.1 ppm and cotton, undelinted seed (0.20 ppm); cotton, gin byproducts (10 ppm); cottonseed, hulls (0.60 ppm); cottonseed meal (0.35 ppm); and cottonseed, refined oil (1.0 ppm). EPA's assessment of exposures and risks associated with establishing the tolerance follows.

*A. Toxicological Profile*

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by carfentrazone-ethyl are discussed in the Unit III.A. of the Final Rule on Carfentrazone-ethyl published in the **Federal Register** of August 9, 2000 (65 FR 48620) (FRL–6597–7).

*B. Toxicological Endpoints*

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where

the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as $1 \times 10^{-6}$ or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure ($MOE_{cancer}$= point of departure/exposures) is calculated. A summary of the toxicological endpoints for carfentrazone-ethyl used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR CARFENTRAZONE-ETHYL FOR USE IN HUMAN RISK ASSESSMENT

| Exposure Scenario | Dose Used in Risk Assessment, UF (mg/kg/day) | FQPA SF and Endpoint for Risk Aassessment (mg/kg/day) | Study and Toxicological Effects |
|---|---|---|---|
| Acute dietary | NOAEL=500 UF[1]=100 aRfD=5 | FQPA SF=1 aPAD=aRfD/FQPA SF aPAD=5 | Acute neurotoxicity-rat; clinical observations (salivation) and decreased motor activity |
| Chronic dietary | NOAEL=3 UF[1]=100 cRfD=0.03 | FQPA SF=1 cPAD=cRfD/FQPA SF cPAD=3 | Chronic toxicity-rat; observations of liver histopathology and total urinary porphyrin |
| Short-term incidental oral | NOAEL=500 UF[1]=100 | FQPA SF=1 LOC for MOE[2]=100 | Acute neurotoxicity-rat; clinical signs (such as salivation), changes in motor activity |
| Intermediate-term incidental oral | NOAEL=50 UF[1]=100 | FQPA SF=1 LOC for MOE[2]=100 | Subchronic toxicity-dog; decreased body weight gain, increased porphyrin levels |
| Long-term incidental oral | Not applicable | Due to nature of incidental exposure, long-term incidental oral is not anticipated | |
| Short-term (dermal) and Intermediate-term (dermal) | Not applicable | No systemic toxicity was seen at the limit-dose (1000 mg/kg/day) in a 21–day dermal toxicity study in rats; therefore, these risk assessments are not required | |
| Long-term (dermal) | Not applicable | Based on the use pattern, long-term dermal exposure is not anticipated | |
| Short-term inhalation | NOAEL=500 UF[1]=100 | FQPA SF=1 LOC for MOE[2]=100 | Acute neurotoxicity-rat; clinical signs (such as salivation), changes in motor activity |
| Intermediate-term inhalation | NOAEL = 50 mg/kg/day UF[1]=100 | FQPA SF=1 LOC for MOE[2]=100 | Subchronic oral-dog; decreased body weight gain, increased porphyrin levels |
| Long-term inhalation | NOAEL=3 UF[1]=100 | FQPA SF=1 LOC for MOE[2]=100 | Chronic toxicity-rat; observations of liver histopathology and total urinary porphyrin |

*C. Exposure Assessment*

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.515) for the combined residues of carfentrazone-ethyl, in or on corn (field corn, sweet corn, and popcorn), wheat, barley, oats, grain sorghum, rice, and soybeans and carfentrazone-chloropropionic acid (40 CFR 180.515) ranging from 0.1 ppm (cereal grain) to 1.0 (rice straw). Preplant and post-emergence applications with ground and/or aerial equipment are permitted with rates ranging from 0.015 lbs ai/acre (grain sorghum) to 0.15 lbs ai/acre (rice). Risk assessments were conducted by EPA to assess dietary exposures from carfentrazone-ethyl in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992– nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: An acute analysis was performed for each population subgroup using tolerance level residues, 100% crop treated, and DEEM™ default processing factors for all registered and proposed commodities.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992– nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: A chronic analysis was performed for the general U.S. population and all population subgroups using tolerance level residues, 100% crop treated, and

DEEM™ default processing factors for all registered and proposed commodities.

iii. *Cancer*. Carfentrazone-ethyl is classified as ''not likely'' to be a human carcinogen.

iv. *Anticipated residue and percent crop treated information*. Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of percent crop treated (PCT) as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used percent crop treated (PCT) information as follows: The Agency believes that the three conditions listed [above] have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average PCT for chronic dietary exposure estimates. This weighted average PCT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the PCT reasonably represents a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average PCT over a lifetime. For acute dietary exposure estimates, EPA uses an estimated maximum PCT. The exposure estimates resulting from this approach reasonably represent the highest levels to which an individual could be exposed, and are unlikely to underestimate an individual's acute dietary exposure. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which carfentrazone-ethyl may be applied in a particular area.

2. *Dietary exposure from drinking water*. Carfentrazone-ethyl breaks down rapidly in the environment to carfentrazone-chloropropionic acid (F8426-ClPAc). The chloropropionic acid degradate subsequently breaks down to F8426-cinnamic acid, F8426-propionic acid, F8426-benzoic acid, and 3-hyroxymethyl-F8426-benzoic acid at slower rates than the parent compound.

The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for carfentrazone-ethyl in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical c haracteristics of carfentrazone-ethyl.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in groundwater. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to carfentrazone-ethyl they are further discussed in the aggregate risk sections below.

The residues of concern in water are carfentrazone-ethyl, F8426-ClPAc, and F8126-CAc. Due to the hydrolysis and metabolic half-life of carfentrazone-ethyl, F8426-ClPAc and F8126-CAc, the agency concluded that the combined EECs for these three compounds would not be significantly different from the EECs for F8426-ClPAc alone. Therefore, a Tier I was provided for ground water (SCI-GROW) and surface water (GENEEC) EECs for only F8426-ClPAc. Both models assumed a seasonal application rate of 0.4 lbs ai/acre (highest proposed and registered rate).

Based on the GENEEC and SCI-GROW models the estimated environmental concentrations (EECs) of carfentrazone-ethyl exposure for surface water is estimated to be 21 part per billions (ppb) for the peak concentration, and exposure for ground water is estimated to be 13.4 ppb.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Carfentrazone-ethyl is not registered for use on any sites that would result in residential exposure.

4. *Cumulative exposure to substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the

Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether carfentrazone-ethyl has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, carfentrazone-ethyl does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that carfentrazone-ethyl has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

*D. Safety Factor for Infants and Children*

1. *In general*. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity*. Based on the developmental and 2–generation reproduction study, there was no indication of increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to the chemical. Therefore, Carfentrazone-ethyl is not a developmental or reproductive toxicant.

3. *Conclusion*. There is a complete toxicity data base for carfentrazone-ethyl and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA determined that the 10X safety factor to protect infants and children should be removed. The FQPA safety factor was reduced to 1X. The rationale was based on the following: There was no indication of increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to the chemical; the toxicological data base is complete; and the fact that there are no registered residential products, in conjunction with the use of generally high quality data, conservative models and/or assumptions in the exposure assessment provide adequate protection for infants and children.

*E. Aggregate Risks and Determination of Safety*

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water [e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure)]. This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: Acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and groundwater are less than the calculated DWLOCs, OPP concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk*. A Tier 1 acute dietary exposure analysis for carfentrazone-ethyl was performed using existing and proposed tolerance level residues, 100 CT for all commodities, and DEEM™ default processing factors. The acute analysis was performed for the U.S. population and population subgroups. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to carfentrazone-ethyl will occupy <1 % of aPAD for all population subgroups at the 95th percentile. In addition, there is potential for acute dietary exposure to carfentrazone-ethyl in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO CARFENTRAZONE-ETHYL

| Population Subgroup | aPAD (mg/kg) | % aPAD (Food) | Surface Water EEC2 (ppb) | Ground Water EEC2 (ppb) | Acute DWLOC3 (ppb) |
|---|---|---|---|---|---|
| U.S. pop - all seasons | 5 | 0.001070 | 21 | 13.4 | 1.8e+05 |
| All Infants (<1 year) year)old) | 5 | 0.001674 | 21 | 13.4 | 5.0e+04 |
| Children (1–6 years old) | 5 | 0.001860 | 21 | 13.4 | 5.0e+04 |
| Children (7–12 years old) | 5 | 0.001270 | 21 | 13.4 | 5.0e+04 |
| Females (13–50 years old) | 5 | 0.000656 | 21 | 13.4 | 1.5e+05 |
| Males (13–19 years old) | 5 | 0.000961 | 21 | 13.4 | 1.8e+05 |
| Males (20+ years old) | 5 | 0.000725 | 21 | 13.4 | 1.8e+05 |
| Seniors (55+ years old) | 5 | 0.000535 | 21 | 13.4 | 1.8e+05 |

2. *Chronic risk*. A Tier 1 chronic dietary exposure analysis for carfentrazone-ethyl was performed using existing and proposed tolerance level residues, 100 CT for all commodities, and DEEM™ default processing factors. The chronic analysis was performed for U.S. population and population subgroups. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to carfentrazone-ethyl from food will utilize < 4% of the cPAD for all population subgroups. There are no residential uses for carfentrazone-ethyl that result in chronic residential exposure to carfentrazone-ethyl. In addition, there is potential for chronic dietary exposure to carfentrazone-ethyl in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO CARFENTRAZONE-ETHYL

| Population Subgroup | cPAD mg/ kg/day | % cPAD (food) | Surface Water EEC (ppb) | Ground Water EEC (ppb) | DWLOC (ppb) |
|---|---|---|---|---|---|
| U.S. pop - all seasons | 0.03 | 0.000409 | 6.6 | 13.4 | 1.0e+03 |
| All Infants (<1 year old) | 0.03 | 0.000740 | 6.6 | 13.4 | 1.0e+03 |
| Children (1–6 years old) | 0.03 | 0.000921 | 6.6 | 13.4 | 1.0e+03 |
| Children (7–12 years old) | 0.03 | 0.000656 | 6.6 | 13.4 | 1.0e+03 |
| Females (13–50 years old) | 0.03 | 0.000308 | 6.6 | 13.4 | 1.0e+03 |
| Males (13–19 years old) | 0.03 | 0.000455 | 6.6 | 13.4 | 1.0e+03 |
| Males (20+ years old) | 0.03 | 0.000326 | 6.6 | 13.4 | 1.0e+03 |
| Seniors (55+ years old) | 0.03 | 0.000260 | 6.6 | 13.4 | 1.0e+03 |

3. *Aggregate cancer risk for U.S. population*. EPA has classified carfentrazone-ethyl as a ''not likely'' to be a human carcinogen; therefore, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to carefentrazone-ethyl residues.

4. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to carfentrazone-ethyl residues.

## IV. Other Considerations

### *A. Analytical Enforcement Methodology*

The methods used in the field trial study for caneberry and cotton have been validated and are adequate for data gathering purposes. The method may be requested from: Francis Griffith, Analytical Chemical Branch, Environmental Science Center, 701 Mapes Road, Fort George G. Mead, Maryland, 20755–5350; telephone number: (410) 305–2905; e-mail address: griffith.francis@epa.gov.

### *B. International Residue Limits*

There are no Codex, Canadian, or Mexican maximum residue limits for residues of carfentrazone-ethyl and F8426-Cl-PAc in/on caneberry, cotton gin byproducts, cottonseed, cottonseed hulls, cottonseed oil, or cottonseed meal.

### *C. Conditions*

IR-4's petition for carfentrazone-ethyl in/on the caneberry subgroup at 0.1 ppm has been made conditional. Additional caneberry field trials and the proposed caneberry enforcement method must be submitted and validated by the agency before unconditional registration is granted.

FMC's must submit a cottonseed processing study. Unconditional registration may be granted upon submission and review of the requested cotton processing study.

## V. Conclusion

Therefore, these tolerances are established for combined residues of carfentrazone-ethyl, (ethyl-alpha,-2-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]-4-fluorobenzenepropanoate) and carfentrazone-ethyl chloropropionic acid (oc, 2-dichloro-5-[4-(difluromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]-4-fluorobenzene propanoic acid), in or on caneberry subgroup at 0.1 ppm, cotton, undelinted seed (0.20 ppm); cotton, gin byproducts (10 ppm); cottonseed, hulls (0.6 ppm); cottonseed, meal (0.35 ppm); and cottonseed, refined oil (1.0 ppm).

## VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

### *A. What Do I Need to Do to File an Objection or Request a Hearing?*

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301149 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before October 1, 2001.

1. *Filing the request*. Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the

public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment*. If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301149, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

*B. When Will the Agency Grant a Request for a Hearing?*

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

## VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq*., or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq*.) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

## VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq*., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

## List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 13, 2001.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.515 is amended by alphabetically adding commodities to the table in paragraph (a) to read as follows:

**§ 180.515 Carfentrazone-ethyl; tolerances for residues.**

(a) * * *

| Commodity | Parts per million |
|---|---|
| * * * | * * |
| Caneberry subgroup | 0.1 |
| * * * | * * |
| Cotton, gin by products | 10 |
| Cotton, undelinted seed | 0.20 |
| Cottonseed, hulls | 0.60 |
| Cottonseed, meals | 0.35 |
| Cottonseed, refined oil | 1.0 |
| * * * | * * |

* * * * *

[FR Doc. 01–19171 Filed 7–31–01; 8:45 am]

BILLING CODE 6560–50–S

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

**[DA 01–1766, MM Docket No. 00–116, RM–9877]**

## Digital Television Broadcast Service; Kansas City, MO

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of KMBC Hearst-Argyle Television, licensee of station KMBC(TV), substitutes DTV channel 7 for DTV channel 14 at Kansas City, Missouri. *See* 65 FR 41035, July 3, 2000. DTV channel 7 can be allotted to Kansas City in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (39–05–01 N. and 94–30–57 W.) with a power of 115, HAAT of 357 meters and with a DTV service population of 2086 thousand. With is action, this proceeding is terminated.

**DATES:** Effective September 10, 2001.

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 00–116, adopted July 24, 2001, and released July 27, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

**List of Subjects in 47 CFR Part 73**

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

## PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

**§ 73.622 [Amended]**

2. Section 73.622(b), the Table of Digital Television Allotments under Missouri, is amended by removing DTV channel 14 and adding DTV channel 7 at Kansas City.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Services Division, Mass Media Bureau.*

[FR Doc. 01–19148 Filed 7–31–01; 8:45 am]

BILLING CODE 6712–01–U

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

**[DA 01–1765, MM Docket No. 01–15, RM–10030]**

## Digital Television Broadcast Service; Missoula, MT

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of KPAX Communications, Inc., licensee of station KPAX–TV, substitutes DTV channel 7 for DTV channel 35 at Missoula, Montana. *See* 66 FR 8557, February 1, 2001. DTV channel 7 can be allotted to Missoula in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (37–01–06 N. and 114–00–41 W.) with a power of 28.0, HAAT of 623 meters and with a DTV service population of 134 thousand. Since Missoula is located within 400 kilometers of the U.S.-Canadian border, concurrence by the Canadian government has been obtained for this allotment. With this action, this proceeding is terminated.

**DATES:** Effective September 10, 2001.

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 01–15, adopted July 24, 2001, and released July 27, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

**List of Subjects in 47 CFR Part 73**

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

## PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

**§ 73.622 [Amended]**

2. Section 73.622(b), the Table of Digital Television Allotments under Montana, is amended by removing DTV channel 35 and adding DTV channel 7 at Missoula.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Services Division, Mass Media Bureau.*

[FR Doc. 01–19147 Filed 7–31–01; 8:45 am]

BILLING CODE 6712–01–U

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 01–1764, MM Docket No. 01–83, RM–10085]**

### Digital Television Broadcast Service; Lexington, KY

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of WLEX Communications, LLC, licensee of station WLEX-TV, substitutes DTV channel 39 for DTV channel 22 at Lexington, Kentucky. See 66 FR 20620, April 24, 2001. DTV channel 39 can be allotted to Lexington in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (38–02–03 N. and 84–23–39 W.) with a power of 1000, HAAT of 288 meters and with a DTV service population of 814 thousand.

With this action, this proceeding is terminated.

**DATES:** Effective September 10, 2001.

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 01–83, adopted July 24, 2001, and released July 27, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

**List of Subjects in 47 CFR Part 73**

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

## PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

**§ 73.622 [Amended]**

2. Section 73.622(b), the Table of Digital Television Allotments under Kentucky, is amended by removing DTV channel 22 and adding DTV channel 39 at Lexington.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Services Division, Mass Media Bureau.*

[FR Doc. 01–19146 Filed 7–31–01; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

### 49 CFR Part 232

**[FRA Docket No. PB–9; Notice No. 20]**

**RIN 2130–AB49**

### Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices

**AGENCY:** Federal Railroad Administration (FRA), DOT.

**ACTION:** Final rule; response to petitions for reconsideration.

**SUMMARY:** On January 17, 2001, FRA published a final rule revising the regulations governing braking systems and equipment used in freight and other non-passenger railroad train operations. The revisions were intended to achieve safety by better adapting the regulations to the needs of contemporary railroad operations and facilitating the use of advanced technologies. The revisions were issued in order to comply with Federal legislation, to respond to petitions for rulemaking, and to address areas of concern derived from experience in the application of existing standards governing these operations. In this document, FRA responds to the concerns and issues raised by interested parties related to the periodic maintenance and testing requirements contained in subpart D of the final rule. This document clarifies and amends the final rule, where necessary, in response to the petitions for reconsideration related to subpart D of the final rule. FRA intends to respond to petitions for reconsideration of other portions of the final rule in a separate document that will be published in the **Federal Register** in the near future.

**DATES:** The amendments to the final rule are effective August 1, 2001. The incorporation by reference of certain publications listed in the amendments to the final rule is approved by the Director of the Federal Register as of August 1, 2001.

**FOR FURTHER INFORMATION, CONTACT:** Leon Smith, Deputy Regional Administrator, Region 3, FRA Office of Safety, RRS–14, 1120 Vermont Avenue, NW., Stop 25, Washington, DC 20590 (telephone 404–562–3800), or Thomas Herrmann, Trial Attorney, Office of the Chief Counsel, RCC–10, 1120 Vermont Avenue, NW., Stop 10, Washington, DC 20590 (telephone 202–493–6053).

**SUPPLEMENTARY INFORMATION:**

**Background**

On January 17, 2001, FRA issued a final rule revising the Federal safety standards governing braking systems and equipment used in freight and other non-passenger railroad train operations. *See* 66 FR 4104. The effective date of the final rule was May 31, 2001. *See* 66 FR 9906 (February 12, 2001) and 66 FR 29501 (May 31, 2001). In response to the final rule, FRA received six petitions for reconsideration from seven parties raising various issues related to a number of the provisions contained in the final rule. These petitioners included:

Association of American Railroads (AAR)

American Short Line and Regional Railroad Association (ASLRRA)

American Public Transportation Association (APTA),

Brotherhood of Locomotive Engineers (BLE),

New York Air Brake Corporation (NYAB),

Rail Passenger Car Alliance (RPCA), and

Union Pacific Railroad Company (UP).

The purpose of this document is to address the issues raised in the petitions for reconsideration relating to the periodic maintenance and testing requirements prescribed in subpart D of the final rule. FRA believes that it is necessary to address these issues as quickly as possible because the periodic maintenance and testing requirements prescribed in subpart D of the final rule have a compliance date of August 1, 2001. Thus, rather than delay the compliance date of the requirements prescribed by this subpart, FRA believes that the best course of action is a separate response addressing the issues specifically raised with regard to this subpart. Due to the complexity of some of the issues raised in the petitions for reconsideration on other provisions of the final rule, FRA intends to respond to those other issues in a separate notice that will be published in the **Federal Register** in the near future.

In response to the final rule, FRA received a joint petition for reconsideration from the AAR and the ASLRRA (''AAR petition'') raising various issues relating to the periodic maintenance and testing provisions contained in subpart D of the final rule. The specific issues and

recommendations raised by these petitioners, and FRA's response to those issues and recommendations are discussed in detail in the ''Section-by-Section Analysis'' portion of the preamble. The section-by-section analysis also contains a detailed discussion of each provision of the January 17, 2001 final rule that is being clarified or amended. This will enable the regulated community to more readily compare this document with the preamble discussions contained in the final rule and will aid the regulated community in understanding the requirements of the rule. All of the changes being made to the final rule in this response to the specific petition for reconsideration noted above are intended to be clarifying or technical amendments or are otherwise within the scope of the issues and options discussed, considered, and raised in either the 1998 notice of proposed rulemaking (NPRM) or the final rule.

**Section-by-Section Analysis**

*Subpart D—Periodic Maintenance and Testing Requirements*

Section 232.303 General requirements

Paragraph (a)(1)(iv) of this section is being slightly modified in response to AAR's petition for reconsideration seeking modification or clarification of the definition contained in this paragraph of what constitutes a ''repair track'' under subpart D. In the preamble to the final rule, FRA explained that the definition contained in this paragraph, when read in conjunction with the rest of the subpart, would require railroads to treat all cars on a track either designated, or regularly and consistently used as a place, to perform minor car repairs (sometimes referred to as an ''expedite track'' or ''expediter track'') to be treated as though they are on a repair track during the period in which major car repairs are being conducted on the track and therefore subject to certain tests and inspections. *See* 66 FR 4179. AAR recommends that single car or repair track air brake tests and other inspections should be required for a car on an expedite track only if the car is undergoing a major repair.

The purpose of this stringent requirement was to prevent railroads from avoiding periodic testing of the brake system by regularly performing major repairs on trackage designated or regularly used to conduct minor repairs. The purpose was not to alter the basic approach to capturing cars for testing at appropriate intervals. FRA also intended for this and other definitions in the final rule to be consistent with FRA's existing enforcement policies and guidance. See 66 FR 4178. Prior to the issuance of the final rule, FRA issued Technical Bulletin (TB) MP&E 00–01 on January 12, 2000, containing enforcement guidance regarding what constitutes a repair or shop track. TBs are intended to provide FRA's inspection personnel as well as industry representatives guidance on how the regulations are to be interpreted and enforced. The definition of shop or repair track contained in the final rule codified much of the guidance contained in the above noted TB. However, TB MP&E 00–01 made clear that if major repairs are conducted on a track designated for minor repairs, then the car receiving the major repairs is to be treated as though it is on a shop or repair track. See TB MP&E 00–01 (last sentence, page 2). Accordingly, after reviewing AAR's petition and reexamining the final rule, FRA has determined that the requirement contained in this paragraph is overly stringent and inconsistent with FRA's intent when issuing the definitions of shop or repair track for purposes of this section.

In order to remain consistent with FRA's primary intent when issuing the requirements, FRA is granting the AAR's petition for reconsideration. FRA is modifying the definition contained in paragraph (a)(1)(iv) to make it consistent with enforcement guidance in effect prior to the issuance of the final rule regarding what constitutes a shop or repair track. Therefore, the amendment to paragraph (a)(1)(iv) clarifies that when major repairs are conducted on trackage that is designated or used by a railroad to regularly and consistently perform minor repairs that trackage will be considered to be a repair track only for the car or cars receiving the major repairs. FRA believes that this restriction is sufficiently stringent to ensure that railroads do not divert cars to ''expediter'' tracks to avoid conducting single car air brake tests. By eliminating any temporary advantage to avoidance of the requirement, this formulation will also tend to promote the completion of heavier repairs under conditions where appropriate arrangements are provided to reduce the risk of injury to workers.

On January 1, 2001, the AAR and its member railroads modified the industry standard related to the performance of both the single car and repair track air brake tests, consolidating the procedures for conducting the two brake tests into one testing procedure, which will be referred to as the ''single car air brake test'' in § 232.305 of this regulation. FRA accepts and incorporates these new procedures into this rule in lieu of the previously incorporated procedures, as discussed in the section-by-section analysis of § 232.305 below. FRA also makes certain conforming changes to various provisions contained in § 232.303. Paragraphs (e), (e)(1), (e)(1)(iv), and (f) of this section are being amended to remove any reference to the previously incorporated repair track air brake test. Instead, these paragraphs will reference the new single car air brake test adopted by the industry on January 1, 2001.

Section§ 232.305 Single Car Air Brake Tests

As noted above, FRA is modifying this entire section in order to incorporate the new AAR procedures for performing single car air brake tests that the industry adopted beginning on January 1, 2001. In its petition, the AAR noted that the April 1, 1999, procedures incorporated in §§ 232.305 and 232.307 of the final rule for performing single car and repair track air brake tests were revised only days before the publication of the final rule on January 17, 2001. The AAR procedures incorporated in the final rule were replaced with a new procedure which combined and enhanced the elements of the previous two air brake test procedures into one single car air brake test procedure, that would be performed whenever either of the two previous tests were required. FRA agrees that the revisions made to the procedures incorporated in the final rule result in a better test that will enhance the safety and reliability of the braking systems on freight equipment. Consequently, FRA is revising this section to incorporate the new AAR procedures, which have been in use by the industry since January 1, 2001.

FRA is also merging the requirements previously contained in §§ 232.305 and 232.307 of the final rule related to the frequency at which the single car and repair track air brake tests are to be performed. The new single car air brake test procedures are and will continue to be performed whenever any of the events occur that were previously detailed in §§ 232.305 and 232.307 of the final rule. FRA is merely merging the list of qualifying events from those two sections of the final rule into this section. The merging of these two sections does not change any of the qualifying events or frequencies which were previously contained in the final rule. Paragraph (f) of this section has been added in order to avoid any misunderstandings or misinterpretations. FRA intends for this paragraph to make clear that a single car or repair track air brake test performed pursuant the AAR procedures as they

existed prior to January 1, 2001, will be considered the last single car air brake test on that piece of equipment for purposes of the requirements prescribed by this section.

In its petition, the AAR again questions the need or wisdom of either FRA's incorporation of its existing single car air brake testing procedures or FRA's approval of any change in those procedures. The AAR points out that the fact that the AAR's April 1, 1999 testing procedures had already been revised by the time the final rule was issued is evidence that FRA will constantly be lagging behind the industry and will merely slow the industry's implementation of improvements to the air brake test requirements. The AAR further contends that the industry's demonstrated record of improving the standards related to periodic air brake testing requirements supports self-regulation in this area. The AAR also noted that it did not understand what FRA means when it states that FRA approval of any changes to the incorporated procedures is necessary to prevent unilateral changes from being made to the procedures.

While FRA agrees that the industry and AAR have improved and enhanced the periodic testing of the brake system through their implementation of various air brake testing requirements, FRA continues to believe that the single car air brake test is critical to ensuring the safe and proper operation of the brake equipment on the nation's fleet of freight cars. With the elimination of time-based cleaning, oiling, and testing of air brake systems, the single car air brake test has become the sole method by which air brake equipment on freight cars is periodically tested to identify potential problems before they result in the brake's becoming inoperative. Therefore, FRA continues to believe that specific and determinable limits must be placed on the manner and frequency of performing this test.

FRA also continues to believe that FRA as well as other interested parties must be given an opportunity to review and comment on any revision of the procedures by which these tests are performed to ensure that there is no degradation in safety resulting from any such modification and to ensure consistency in how the tests are performed. In the preamble to the final rule, FRA also noted that its review and approval are necessary to prevent unilateral changes from being made to the test procedures. Under the existing maintenance provisions prescribed in part 232, freight cars are subject to periodic brake attention in accordance with ''the currently effective AAR Code of Rules for cars in interchange'' and ''the currently effective AAR Code of Tests.'' *See* 49 CFR 232.17. The existing regulations permit the AAR to make unilateral changes to either its Code of Rules or its Code of Tests and, thus, to affect how or what periodic tests and maintenance may be required, potentially without FRA or any other non-AAR member having an opportunity to provide input. By incorporating the January 1, 2001 AAR procedures for conducting single car air brake tests into the regulations, FRA ensures that a minimum baseline standard is maintained and allows for FRA and other interested parties to review and comment on any potential change or deviation from that baseline standard.

FRA continues to recognize that the industry may find it necessary to modify the single car air brake test procedures from time to time in order to address new equipment or utilize new technology. Thus, FRA is amending paragraph (a) of this section and revising § 232.307 to include an expedited method by which the industry may revise the incorporated test procedures. In response to the AAR petition for reconsideration, FRA is adding another method by which the incorporated test procedures may be modified, in addition to the special approval process contained in § 232.17 of the final rule. As recommended by AAR in its petition, the modification procedure being added in this response will permit changes in the procedures to become immediately effective upon expiration of a comment period if no objections are raised to the proposed modification by either FRA or other interested parties during the comment period.

It should be noted that the incorporated procedures for performing single air brake tests are the minimum requirements for performing such tests. The special approval or modification process is required to be used only if the incorporated procedures are to be changed in some manner. For instance, if the industry were to elect to add a new test protocol to its procedures, there would be no need to seek approval of such an addition as long as the procedures contained in the incorporated standard are still maintained. The final rule is not intended to prevent railroads from voluntarily adopting additional or more stringent maintenance standards provided they are consistent with the standards incorporated.

Section § 232.307 Modification of the Single Car Air Brake Test Procedures

The AAR's petition for reconsideration requests that FRA withdraw the requirement that FRA approve AAR single car air brake testing requirements or, alternatively, that FRA permit changes in the procedures to go into effect automatically unless FRA explicitly objects to the changes. As noted in the preceding discussion, FRA recognizes that the industry may find it necessary to modify the single car air brake test procedures from time to time. FRA also agrees that a process needs to be provided to the industry to allow for modification of the incorporated testing procedures in a quick and efficient manner. However, any such process must provide both FRA and other interested parties an opportunity to review potential changes prior to their becoming effective. Consequently, to meet these needs and to respond substantively to AAR's request, FRA has revised this section to include a process by which the incorporated single car air brake test procedures in § 232.305(a) can be modified expeditiously.

The process outlined in this section will permit the industry to modify the single car air brake test procedures incorporated in § 232.305, and permit those modifications to become effective 75 days from the date that FRA publishes the requested modification in the **Federal Register**, if no objection to the requested modification is raised either by FRA or any other interested party. The process allows FRA and other interested parties 60 days to review and raise objections to any proposed modification requested by the industry and submitted to FRA.

Paragraph (a) describes the information that must be submitted to FRA in a request for modification. Paragraph (b) requires FRA to publish a notice in the **Federal Register** upon receipt of any request for modification. FRA wishes to make clear that the publication of such a notice may occur several days or weeks after the submission of a request for modification due to formatting requirements and scheduling concerns of the **Federal Register** as well as FRA's workload capabilities. However, FRA is committed to ensuring that this expedited modification process is successful and will make every effort to publish requests for modification as quickly as possible without undue delay.

Paragraph (c) provides for a 60-day comment period, during which FRA and other interested parties will review the request. FRA must also raise any

objections it has to a requested modification during the 60-day comment period. Interested parties must submit any objections they have to the requested modification during the 60-day comment period provided.

Paragraph (d)(1) explains that a requested modification will become effective 15 days after the close of the 60-day comment period if FRA raises no objections to the requested modification and no objections are received by other interested parties. The 15-day waiting period is designed to afford FRA a chance to review any comments submitted during the 60-day comment period, especially those submitted toward the end of that period. Thus, the party requesting the modification may not be informed of an objecting comment until after the close of the 60-day comment period. However, such notification would be provided prior to the close of the 15-day waiting period.

Paragraph (d)(2) makes clear that if objections are raised to a requested modification by either FRA or another interested party during the prescribed time periods, then the request will be disposed of in a manner similar to that established for addressing petitions for an alternative standard under the special approval procedures contained in § 232.17 of the final rule. FRA will either grant or deny the requested modification in as expeditious manner as possible, generally within 90 days of receiving the submission. Accordingly, when an objection is raised to a requested modification, the proposed modification could not become effective until FRA formally grants the request.

FRA believes the process established in this section will meet the needs of AAR and the industry to modify the single car air brake test procedures incorporated in § 232.305(a) expeditiously. However, for the process to work at optimum efficiency, the AAR and the industry would be best served if they ensure that there is open communication regarding any modifications with both FRA and the representatives of affected employees prior to requesting any modification of the procedures. This will ensure that interested parties are fully informed of any potential modification and their concerns are addressed or allayed before a request for modification is submitted to FRA. This information and dialogue will eliminate the potential for objections being submitted when the requested modification is officially sought.

Section § 232.309 Equipment and Devices Used To Perform Single Car Air Brake Tests

Due to the AAR's consolidation of the procedures for performing single car and repair track air brake tests into a single procedure and FRA's acceptance and incorporation of those new procedures into the rule, as discussed in detail above, conforming changes are being made to paragraph (a) of this section. Paragraph (a) is amended to remove any reference to the previously incorporated repair track air brake test. Instead, this paragraph will reference the new single car air brake test adopted and implemented by the industry on January 1, 2001.

Appendix A To Part 232—Schedule of Civil Penalties

Appendix A to this part contains the schedule of civil penalties to be used in connection with this part. Due to the modification of the final rule discussed in detail above, FRA is making conforming changes to the schedule of civil penalties contained in this appendix.

**Regulatory Impact**

*Executive Order 12866 and DOT Regulatory Policies and Procedures*

This response to petitions for reconsideration of the final rule has been evaluated in accordance with Executive Order 12866 and DOT policies and procedures. Although the final rule met the criteria for being considered a significant rule under those policies and procedures, the amendments contained in this response to petitions for reconsideration of the final rule are not considered significant because they either clarify requirements currently contained in the final rule or allow for greater flexibility in complying with the rule. The economic impact of the amendments and clarifications contained in this response to petitions for reconsideration will generally reduce the cost of compliance with the rule. However, the cost reduction will be minimal and does not significantly alter FRA's original analysis of the costs and benefits associated with the original final rule.

*Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires a review of rules to assess their impact on small entities. FRA prepared and placed in the docket a Regulatory Flexibility Assessment, which assessed the small entity impact of the final rule. FRA certifies that this response to petitions for reconsideration of the final rule does not affect the assessments made in that document. Document inspection and copying facilities are available at 1120 Vermont Avenue, NW., 7th Floor, Washington, DC 20590. Photocopies may also be obtained by submitting a written request to the FRA Docket Clerk at Office of Chief Counsel, Stop 10, Federal Railroad Administration, 1120 Vermont Avenue, NW., Washington, DC 20590.

Pursuant to Section 312 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), FRA has published an interim policy that formally establishes ''small entities'' as being railroads that meet the line-haulage revenue requirements of a Class III railroad. 62 FR 43024 (Aug. 11, 1997). For other entities, the same dollar limit in revenues governs whether a railroad, contractor, or other respondent is a small entity.

FRA certifies that this response to petitions for reconsideration does not have a significant impact on a substantial number of small entities. Because the amendments contained in this document either clarify requirements currently contained in the final rule or allow for greater flexibility in complying with the rule, FRA has concluded that there are no substantial economic impacts on small units of government, businesses, or other organizations.

*Paperwork Reduction Act*

This response to petitions for reconsideration of the final rule does not significantly change any of the information collection requirements contained in the original final rule. Presently, the information collection requirements associated with this rule have been approved by the Office of Management and Budget (OMB) under OMB Number 2130–0008. The current expiration date for this OMB approval is December 31, 2003.

After carefully reviewing the petitions for reconsideration of the final rule, FRA's response to the petitions contained in this document incorporates a new single car air brake test procedure in place of the single car and repair track air brake test procedures incorporated in the final rule at §§ 232.305 and 232.307. The newly incorporated single car air brake test procedures will be contained solely in § 232.305 with virtually the same triggering requirements as before. In this response, FRA will permit the AAR or other authorized representative of the rail industry to seek modification of the single car air brake test procedures pursuant to a new modification procedure which will be contained in

§ 232.307. Under the final rule, the only method by which a party could modify the incorporated testing procedures was to submit a petition under the special approval process contained in § 232.17. The modification procedures contained in this document will require much of the same information to be submitted by the requesting party as is required under § 232.17, but will permit modifications to become effective immediately if no objection is raised by either FRA or other interested parties. The burden associated with the new § 232.307 has already been accounted for under the estimated burdens associated with § 232.17 because most of the petitions that would have been submitted under the special approval process will likely be submitted under the modification procedures contained in § 232.307. Overall, the burden hours for this information collection have not changed; they have merely been reallocated. FRA has included the modification procedures in order to make the approval process for certain modifications more expeditious for the industry, which may ease some of the time and cost burdens incurred in complying with this regulation.

It should be noted that the AAR raised several issues concerning the information collection submission associated with this final rule and FRA's compliance with the Government Paperwork Elimination Act (GPEA). FRA intends to respond to these concerns as well as other substantive issues in a separate response that will be published in the **Federal Register** in the near future.

*Environmental Impact*

FRA has evaluated this response to petitions for reconsideration of the final rule in accordance with its ''Procedures for Considering Environmental Impacts'' (FRA Procedures) (64 FR 28545, May 26, 1999) as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and related regulatory requirements. FRA has determined that this document is not a major FRA action (requiring the preparation of an environmental impact statement or environmental assessment) because it is categorically excluded from detailed environmental review pursuant to section 4(c) of FRA's Procedures.

*Federalism Implications*

FRA believes it is in compliance with Executive Order 13132. Because the amendments contained in this response to petitions for reconsideration of the final rule either clarify requirements currently contained in the final rule or allow for greater flexibility in complying with the rule, this document will not have a substantial effect 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. This response to petitions for reconsideration of the final rule will not have federalism implications that impose any direct compliance costs on State and local governments. FRA notes that States involved in the State Participation Program, pursuant to 49 CFR part 212, may incur minimal costs associated with the training of their inspectors involved in the enforcement of the final rule; however, the majority of technical training costs for inspectors are borne by FRA within existing appropriations.

In any event, Federal preemption of a State or local law occurs automatically as a result of the statutory provision contained at 49 U.S.C. 20106 when FRA issues a regulation covering the same subject matter as a State or local law unless the State or local law is designed to reduce an essentially local safety hazard, is not incompatible with Federal law, and does not place an unreasonable burden on interstate commerce. (See discussion in the section-by-section analysis of § 232.13.) It should be noted that the potential for preemption also exists under various other statutory and constitutional provisions. These include: 49 U.S.C. 20701–20703 (formerly, commonly known as the Locomotive Inspection Act), 49 U.S.C. 20301–20304 (formerly, commonly known as the Safety Appliance Acts), and the Commerce Clause of the United States Constitution.

*Energy Impact*

Executive Order 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' *See* 66 FR 28355 ( May 22, 2001). Under the Executive Order, a ''significant energy action'' is defined as any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) That is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. FRA has evaluated this response to petitions for reconsideration of the final rule in accordance with Executive Order 13211. Although the final rule met the criteria for being considered a significant rule under Executive Order 12866 and DOT policies and procedures, the amendments contained in this response to petitions for reconsideration of the final rule are not considered significant because they either clarify requirements currently contained in the final rule or allow for greater flexibility in complying with the rule. Consequently, FRA has determined that this regulatory action is not a ''significant energy action'' within the meaning of Executive Order 13211.

**List of Subjects in 49 CFR Part 232**

Incorporation by reference, Penalties, Railroad power brakes, Railroad safety, Two-way end-of-train devices.

For the reasons set forth in the preamble, part 232 of chapter II of title 49 of the Code of Federal Regulations is amended as follows:

## PART 232—[AMENDED]

1. The authority citation for part 232 continues to read as follows:

**Authority:** 49 U.S.C. 20102–20103, 20107, 20133, 20141, 20301–20303, 20306, 21301–21302, 21304; 49 CFR 1.49 (c), (m).

## Subpart D—Periodic Maintenance and Testing Requirements

2. Section 232.303 is amended by revising paragraphs (a)(1)(iv), (e)(1) introductory text and (e)(1)(iv), and the introductory text of paragraphs (e) and (f) to read as follows:

**§ 232.303 General requirements.**

(a) * * *

(1) * * *

(iv) A track designated by a railroad as a track where minor repairs will be conducted or used by a railroad to regularly and consistently perform minor repairs during the period when the track is used to conduct major repairs; however, such trackage is considered a shop or repair track only for each car receiving major repairs on such trackage and not for a car receiving only minor repairs; and

* * * * *

(e) If the single car air brake test required by § 232.305 cannot be conducted at the point where repairs can be made to the car, the car may be moved after the repairs are made to the next forward location where the test can be performed. Inability to perform a single car air brake test does not constitute an inability to make the necessary repairs.

(1) If it is necessary to move a car from the location where the repairs are

performed in order to perform a single car air brake test required by this part, a tag or card shall be placed on both sides of the equipment, or an automated tracking system approved for use by FRA, shall contain the following information about the equipment:

* * * * *

(iv) Indication whether the car requires a single car air brake test;

* * * * *

(f) The location and date of the last single car air brake test required by § 232.305 shall be clearly stenciled, marked, or labeled in two-inch high letters or numerals on the side of the equipment. Alternatively, the railroad industry may use an electronic or automated tracking system to track the required information and the performance of the test required by § 232.305.

* * * * *

3. Section 232.305 is revised to read as follows:

**§ 232.305 Single car air brake tests.**

(a) Single car air brake tests shall be performed by a qualified person in accordance with either Section 3.0, ''Tests-Standard Freight Brake Equipment,'' and Section 4.0, ''Special Tests,'' of the Association of American Railroads Standard S–486–01, ''Code of Air Brake System Tests for Freight Equipment,'' contained in the AAR *Manual of Standards and Recommended Practices, Section E* (January 1, 2001); an alternative procedure approved by FRA pursuant to § 232.17; or a modified procedure approved in accordance with the provisions contained in § 232.307. The incorporation by reference of these two sections of this AAR standard was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy of the incorporated document from the Association of American Railroads, 50 F Street, NW., Washington, DC 20001. You may inspect a copy of the document at the Federal Railroad Administration, Docket Clerk, 1120 Vermont Avenue, NW., Suite 7000, Washington, DC or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(b) Except as provided in § 232.303(e), a railroad shall perform a single car air brake test on a car when:

(1) A car has its brakes cut-out or inoperative when removed from a train or when placed on a shop or repair track, as defined in § 232.303(a);

(2) A car is on a shop or repair track, as defined in § 232.303(a), for any reason and has not received a single car air brake test within the previous 12-month period;

(3) A car is found with missing or incomplete single car air brake test information;

(4) One or more of the following conventional air brake equipment items is removed, repaired, or replaced:

(i) Brake reservoir;

(ii) Control valve mounting gasket;

(iii) Pipe bracket stud;

(iv) Service portion;

(v) Emergency portion; or

(vi) Pipe bracket.

(5) A car is found with one or more of the following wheel defects:

(i) Built-up tread, unless known to be caused by hand brake left applied;

(ii) Slid flat wheel, unless known to be caused by hand brake left applied; or

(iii) Thermal cracks.

(c) Except as provided in paragraph (d) of this section, each car shall receive a single car air brake test no less than every 5 years.

(d) Each car shall receive a single car air brake test no less than 8 years from the date the car was built or rebuilt.

(e) A single car air brake test shall be performed on each new or rebuilt car prior to placing or using the car in revenue service.

(f) For purposes of paragraphs (b)(2), (b)(3), and (c) of this section, if a single car test or repair track air brake test is conducted on a car prior to January 1, 2001, pursuant to the then existing AAR standards, it shall be considered the last single car air brake test for that car, if necessary.

4. Section 232.307 is revised to read as follows:

**§ 232.307 Modification of the single car air brake test procedures.**

(a) *Request.* The AAR or other authorized representative of the railroad industry may seek modification of the single car air brake test procedures prescribed in § 232.305(a). The request for modification shall be submitted in triplicate to the Associate Administrator for Safety, Federal Railroad Administration, 400 7th Street, S.W., Washington, D.C. 20590 and shall contain:

(1) The name, title, address, and telephone number of the primary person to be contacted with regard to review of the modification;

(2) The modification, in detail, to be substituted for a particular procedure prescribed in § 232.305(a);

(3) Appropriate data or analysis, or both, for FRA to consider in determining whether the modification will provide at least an equivalent level of safety; and

(4) A statement affirming that the railroad industry has served a copy of the request on the designated representatives of the employees responsible for the equipment's operation, inspection, testing, and maintenance under this part, together with a list of the names and addresses of the persons served.

(b) *Federal Register document.* Upon receipt of a request for modification, FRA will publish a document in the **Federal Register** containing the requested modification. The document will permit interested parties 60 days to comment on any requested modification.

(c) *FRA review.* During the 60 days provided for public comment, FRA will review the petition. If FRA objects to the requested modification, written notification will be provided, within this 60-day period, to the party requesting the modification detailing FRA's objection.

(d) *Disposition.* (1) If no comment objecting to the requested modification is received during the 60-day comment period, provided by paragraph (b) of this section, or if FRA does not issue a written objection to the requested modification, the modification will become effective 15 days after the close of the 60-day comment period.

(2) If an objection is raised by an interested party, during the 60-day comment period, or if FRA issues a written objection to the requested modification, the requested modification will be handled as follows:

(i) If FRA finds that the request complies with the requirements of this section and that the proposed modification is acceptable and justified, the request will be granted, normally within 90 days of its receipt. If the request for modification is neither granted nor denied within 90 days, the request remains pending for decision. FRA may attach special conditions to the approval of any request for modification. Following the approval of a request for modification, FRA may reopen consideration of the request for cause.

(ii) If FRA finds that the request does not comply with the requirements of this section and that the proposed modification is not acceptable or justified, the requested modification will be denied, normally within 90 days of its receipt.

(iii) When FRA grants or denies a request for modification, or reopens consideration of the request, written notice is sent to the requesting party and other interested parties.

5. Section 232.309 is amended by revising the section heading and paragraph (a) to read as follows:

**§ 232.309 Equipment and devices used to perform single car air brake tests.**

(a) Equipment and devices used to perform single car air brake tests shall be tested for correct operation at least once each calendar day of use.

* * * * *

6. Appendix A to part 232 is amended by removing the entry for § 232.307 and by revising the entry for § 232.305 to read as follows:

**Appendix A to Part 232—Schedule of Civil Penalties**

* * * * *

| | Section | Willful Violation |
|---|---|---|
| * * * * * | | |
| 232.305 Single car air brake tests: | | |
| (a) Failure to test in accord with required procedure ..... | 2,500 | 5,000 |
| (b)–(e) Failure to perform test ..... | 2,500 | 5,000 |
| * * * * * | | |

* * * * *

Issued in Washington, DC, on July 26, 2001.

**Betty Monro,**

*Deputy Federal Railroad Administrator.*

[FR Doc. 01–19023 Filed 7–31–01; 8:45 am]

BILLING CODE 4910–06–P

# Proposed Rules

Federal Register
Vol. 66, No. 148
Wednesday, August 1, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 916

**[Docket No. FV01–916–2 PR]**

### Nectarines Grown in California; Increased Assessment Rate

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This rule would increase the assessment rate established for the Nectarine Administrative Committee (committee) for the 2001–02 and subsequent fiscal periods from $0.1850 to $0.20 per 25-pound container or container equivalent of nectarines handled. The committee locally administers the marketing order which regulates the handling of nectarines grown in California. Authorization to assess nectarine handlers enables the committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period runs from March 1 through the last day of February. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** Comments must be received by August 31, 2001.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–8938, or E-mail: *moab.docketclerk@usda.gov.* Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html.*

**FOR FURTHER INFORMATION CONTACT:** Toni Sasselli, Marketing Assistant, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721, (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov.*

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 124 and Order No. 916, both as amended (7 CFR part 916), regulating the handling of nectarines grown in California, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California nectarine handlers are subject to assessments. Funds to administer the orders are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable nectarines beginning on March 1, 2001, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the committee for the 2001–02 and subsequent fiscal periods from $0.1850 to $0.20 per 25-pound container or container equivalent of nectarines.

The nectarine marketing order provides authority for the committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the committee are producers of California nectarines. They are familiar with the committee's needs, and with the costs for goods and services in their local area and are, thus, in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1996–97 fiscal period, the committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the committee or other information available to the Secretary.

The committee met on May 3, 2001, and unanimously recommended 2001–02 expenditures of $4,338,744 and an assessment rate of $0.20 per 25-pound container or container equivalent of nectarines. In comparison, last year's budgeted expenditures were $4,399,087. The assessment rate of $0.20 is $0.015 higher than the rate currently in effect.

The increase is needed as a result of a crop reduction due to spring hailstorms, and to keep the committee's reserve at an adequate level. The quantity of assessable nectarines before the hailstorms was estimated to be 24

million containers or container equivalents of nectarines. After the hailstorms, the estimate of assessable nectarines was reduced to 19,351,000 containers or container equivalents of nectarines.

The major expenditures recommended by the committee for the 2001–02 year include $423,176 for salaries and benefits, $157,821 for general expenses, $1,000,000 for inspection, $169,393 for research, and $2,429,000 for domestic and international promotion.

Budgeted expenses for these items in 2000–01 were $401,007 for salaries and benefits, $165,948 for general expenses, $1,100,00 for inspection, $139,025 for research, $2,424,000 for domestic and international promotion.

To reach agreement on the applicable 2001–02 assessment rate, the committee considered the total expenses of $4,338,744; the assessable nectarines estimated at 19,351,000 25-pound containers or container equivalents; the estimated income from other sources such as interest income, and additional funds required from the committee's financial reserve at varying assessment rates.

Cognizant of the fact that the committee was in agreement regarding the total expenses estimated, as well as the estimated assessable containers or container equivalents, several assessment rates were discussed and their effects on the budget calculated. At varying assessment rates, the committee would require using more or less funds from the financial reserve to meet budgeted expenses. For example, at the current assessment rate of $0.19 per container or container equivalent, assessments received would be $3,676,690 and would result in a financial reserve of $20,628 at the end of the fiscal period. At the proposed assessment of $0.20 per container or container equivalent, assessments received would be $3,870,200 and would result in a financial reserve of $214,138, more consistent with committee financial needs. The committee recognizes that a minimum financial reserve is necessary to meet its obligations in the early part of each fiscal year, before handler assessments are billed and received. According to the committee, that assessment rate would result in an adequate financial reserve.

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of committee meetings are available from the committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department would evaluate committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The committee's 2001–02 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by the Department.

**Initial Regulatory Flexibility Analysis**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 300 California nectarine handlers subject to regulation under the order covering nectarines grown in California, and about 1,800 producers of nectarines grown in California. Small agricultural service firms, which includes handlers, are defined by the Small Business Administration (13 CFR 121.201) as those whose annual receipts are less than $5,000,000. Small agricultural producers are defined by the Small Business Administration as those having annual receipts of less than $500,000. A majority of these handlers and producers may be classified as small entities, excluding receipts from other sources.

In the 2000 season, the average handler price received was $9.00 per container or container equivalent of nectarines. A handler would have to ship at least 555,556 containers or container equivalents of nectarines to have annual receipts of $5,000,000. Given data on shipments maintained by the committee's staff and the average handler price received during the 2000 season, the committee's staff estimates that small handlers of nectarines represent approximately 94 percent of the handlers within the industry.

In the 2000 season, the average producer price received was $5.50 per container or container equivalent of nectarines. A producer would have to produce at least 90,910 containers or container equivalents of nectarines to have annual receipts of $500,000. Given data maintained by the committee's staff and the average producer price received during the 2000 season, the committee's staff estimates that small producers represent approximately 78 percent of the nectarine producers within the industry.

This rule would increase the assessment rate established for the committee and collected from handlers for the 2001–02 and subsequent fiscal periods from $0.1850 to $0.20 per 25-pound container or container equivalent of nectarines. The committee unanimously recommended 2001–02 expenditures of $4,338,774 and an assessment rate of $0.20 per 25-pound container or container equivalent of nectarines. The proposed assessment rate of $0.20 is $0.015 higher than the current rate. The quantity of assessable nectarines for the 2001–02 fiscal year is estimated at 19,351,000 25-pound container or container equivalents. Thus, the $0.20 rate should provide $3,870,200 in assessment income. Income derived from handler assessments, along with other income and funds from the committee's authorized reserve would be adequate to cover budgeted expenses.

The major expenditures recommended by the committee for the 2001–02 year include $423,176 for salaries and benefits, $157,821 for general expenses, $1,000,000 for inspection, $169,393 for research, and $2,429,000 for domestic and international promotion.

Budgeted expenses for these items in 2000–01 were $401,007 for salaries and benefits, $165,948 for general expenses, $1,100,00 for inspection, $139,025 for research, $2,424,000 for domestic and international promotion.

The increase is needed as a result of a crop reduction due to spring hailstorms, and to keep the committee's reserve at an adequate level. The assessable nectarine estimate before the hailstorms was 24 million containers or container equivalents of nectarines. After the hailstorms, the estimate was reduced to 19,351,000 containers or container equivalents of nectarines. The

committee reviewed and unanimously recommended 2001–02 expenditures of $4,338,774. Prior to arriving at this budget, the committee considered information and recommendations from various sources, including, but not limited to: the Management Services Committee, the Research Subcommittee, the International Programs Subcommittee, the Grade and Size Subcommittee, the Domestic Promotion Subcommittee, and the Grower Relations Subcommittee. Some of these subcommittees discussed alternatives to increasing the assessment rate, such as permitting the rate to remain the same or increasing the rate to $0.19 or $0.195 per 25-pound container or container equivalent. The assessment rate of $0.20 per 25-pound container or container equivalent, is expected to result in an operating reserve of $214,138, more in line with committee financial needs. The $0.20 rate was subsequently recommended to the committee by the Management Services Committee.

As noted earlier, the committee then considered the total estimated expenses, the total estimated assessable 25-pound containers or container equivalents, the estimated income from other sources such as interest income, and additional funds required from the committee's financial reserve at varying assessment rates, as the subcommittees had done, prior to recommending a final assessment rate. Depending on the assessment rate established, the committee would require more or less funds from the financial reserve, which the committee uses to meet its obligations prior to billing and receiving handler assessments the following year. Based on those deliberations, an assessment rate of $0.20 per 25-pound container or container equivalent was agreed upon and recommended to the Department. Such an assessment rate would result in an adequate financial reserve.

A review of historical and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2001–02 season could range between $5.50 and $6.00 per 25-pound container or container equivalent of nectarines. Therefore, the estimated assessment revenue for the 2001–02 fiscal period as a percentage of total grower revenue could range between 3.35 and 3.65 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived from the operation of the marketing order. In addition, the committee's meeting was widely publicized throughout the California nectarine industry and all interested persons were invited to attend the meeting and participate in committee deliberations on all issues. Like all committee meetings, the May 3, 2001, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously-mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposal. Thirty days is deemed appropriate because: (1) The committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 2001–02 fiscal period began on March 1, 2001, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable nectarines handled during such fiscal period; (3) handlers are aware of this action which was unanimously recommended by the committee at public meetings and is similar to other assessment rate actions issued in past years; and (4) this proposed rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this rule.

**List of Subjects in 7 CFR Part 916**

Nectarines, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 916 is proposed to be amended as follows:

## PART 916—NECTARINES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 916 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 916.234 is revised to read as follows:

**§ 916.234 Assessment rate.**

On and after March 1, 2001, an assessment rate of $0.20 per 25-pound container or container equivalent of nectarines is established for California nectarines.

Dated: July 26, 2001.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 01–19100 Filed 7–31–01; 8:45 am]

BILLING CODE 3410–02–P

## CONSUMER PRODUCT SAFETY COMMISSION

## 16 CFR Part 1500

## Baby Bath Seats and Rings; Advance Notice of Proposed Rulemaking; Request for Comments and Information

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Commission has reason to believe that baby bath seats and rings, as currently designed, may present an unreasonable risk of injury. The Commission is aware of 78 deaths and 110 non-fatal incidents and complaints from January 1983 through May 2001 involving baby bath seats and rings. Forty-one of these non-fatal incidents/complaints occurred when a caregiver was present. In July 2000, the Commission received a petition from the Consumer Federation of America and eight other organizations asking the Commission to ban baby bath seats. This advance notice of proposed rulemaking (''ANPR'') initiates a rulemaking proceeding under the Federal Hazardous Substances Act. The Commission solicits written comments concerning the risks of injury associated with baby bath seats and rings, the regulatory alternatives discussed in this notice, other possible ways to address these risks, and the economic impacts of the various regulatory alternatives. The Commission also invites interested persons to submit an existing standard, or a statement of intent to modify or develop a voluntary standard, to address

the risk of injury described in this notice. During the decision meeting, the Commission stated that the staff should undertake an aggressive, ongoing information and education initiative to inform new caregivers about the danger of leaving babies unattended in the bath or any source of water. The Commission solicits comments on this initiative.

**DATES:** Written comments and submissions in response to this notice must be received by October 1, 2001.

**ADDRESSES:** Comments should be mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207–0001, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland; telephone (301) 504–0800. Comments also may be filed by telefacsimile to (301)504–0127 or by email to cpsc-os@cpsc.gov. Comments should be captioned ''ANPR for Baby Bath Seats.''

**FOR FURTHER INFORMATION CONTACT:** Patricia Hackett, Directorate for Engineering Sciences, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0494, ext. 1309.

**SUPPLEMENTARY INFORMATION:**

## A. Background

In 1994, the CPSC staff prepared for the Commission a briefing package discussing options for baby bath seats. At that time, the staff was aware of 13 infant deaths and seven non-fatal injury incidents that were associated with baby bath seats and rings. Most of the victims were between 6 and 11 months of age. The Commission also had reports of approximately 30 incidents in which the seats tipped over or the children slipped down in their seats, but for which no injuries were reported. The 1994 briefing package reported that in 1992, sales of bath seats/rings were around 660,000 units with a retail value of $9 million. Bath seats were owned by an estimated 28 percent of mothers with infants, with an estimated 1.4 million available for use in homes with infants in 1992.

Approximately 10 out of 66 firms that manufactured or imported bathing accessories for infants were identified as suppliers of baby bath seats/rings. In 1994, staff was not aware of any voluntary or mandatory safety standards for bath seats/rings.

In 1994, the Commission staff recommended that the Commission begin a rulemaking with the publication of an advance notice of proposed rulemaking (''ANPR''). On June 15, 1994, the Commission voted 2–1 against initiating a rulemaking, but instructed the staff to work with industry on a public information campaign. The staff asked the Juvenile Products Manufacturers Association (''JPMA'') to disseminate the message that caregivers should never leave a baby unattended in a tub of water. The staff also produced two safety alerts on the hazard and included the message in some safety publications.

In July 2000, the Consumer Federation of America and eight additional organizations petitioned the Commission to ban baby bath seats.[1] In August 2000, an additional organization, U.S. Public Interest Research Group, submitted a letter requesting to be added to the list of petitioners. The petition was docketed under the Federal Hazardous Substances Act (''FHSA'') (Petition No. HP 00–4), and a notice requesting comments was published on August 22, 2000 in the **Federal Register**, 65 FR 50968.

The petitioners state that at least eight babies a year die due to drowning associated with baby bath seats. They state that these drownings ''typically occur when the infant tips over, climbs out of, or slides through the product.''

The petitioners also argue that the bath seats create a ''false sense of security,'' which ''leads to increased risk-taking behavior among those using the product even when the irresponsible nature of the caregivers is taken into account.''

## B. The Product

This rulemaking covers baby bath rings and baby bath seats. Bath rings typically consist of a plastic ring with three or four legs equipped with suction cups. The infant sits directly on the bathtub surface or on a fitted sponge pad within the ring, straddling a bath ring leg. As defined here, bath rings are no longer manufactured for the U.S. market. However, they may still be available in the secondhand market. Baby bath seats are similar to bath rings, but provide a molded plastic seat for the infant to sit on. Suction cups are attached to the underside of the molded plastic seat.

Bath seats and rings are not intended to be used with textured or non-skid bathtub surfaces. Textured and non-skid bathtubs represent a substantial portion of the residential tubs sold today.

The Juvenile Products Manufacturers Association (''JPMA''), a trade association of manufacturers, importers, and distributors of juvenile products, noted in its comments on the petition that ''bath seats and rings are generally not recommended for use until six months of age or when the children can sit upright unassisted. They are usually discontinued in use when a child seeks to escape the confines of the product or can stand up while holding onto other objects. Theses [sic] products have a useful product life of several months with both lower and upper limits being determined by the development and ability of the child.'' Developmental literature indicates that infants begin to pull up on objects around 9 months of age. Based on this information, and allowing for developmental differences in individual children, bath seats/rings are most appropriate with infants from about 5 to 10 months of age.

At the time of the 1994 Commission briefing there were approximately 10 firms supplying baby bath seats/rings. Currently, however, there are only two manufacturers of bath seats in the U.S. market, with one of these controlling the majority of the market. Their estimated retail sales of new baby bath seats may range from 700,000 to 1,000,000 annually.

Commission staff estimates that there are between 1.3 and 2 million bath seats available for use in homes with infants. This estimate is based on 1999 survey results that indicated 33 percent of new mothers own bath seats or rings, census data that show about 4 million infants born per year in the United States, and an industry estimate of 2 million bath seats/rings in use.

Prices for infant bath seats range from about $10 to $16. Seats that convert from an infant bathtub to an infant bath seat sell for about $20 to $25.

## C. The Risk of Injury

### *1. Incident Data*

The Commission has reports of 78 deaths and 110 non-fatal incidents and complaints associated with baby bath rings or seats between January 1983 and May 2001.[2] Forty-one non-fatal incidents/complaints occurred while the caregiver was present.

The victims involved in the fatal incidents ranged in age from 5 months old to 20 months old. Sixty-eight of the

[1] The other petitioners are Drowning Prevention Foundation; Danny Foundation for Crib and Child Product Safety; Intermountain Injury Control Research Center; California Coalition for Children's Safety and Health; California Drowning Prevention Network; Contra Costa County Childhood Injury Prevention Coalition; Greater Sacramento SAFE KIDS Coalition; and Kids in Danger.

[2] The identified cases do not represent a complete count nor a sample of known probability of selection. The cases do provide information about the types of incidents associated with baby bathing aids.

victims were between 5 and 10 months of age. The age of victims most frequently involved in the fatal incidents was 7 months (22 of the 78). Seventy-five of the 78 deaths took place when the victim was left unattended (by the caregiver) in the bathtub for a few minutes or longer. The times that the caregiver was out of the room varied from a reported 2 minutes to over one hour. Some of the reasons stated for leaving the child unattended were to respond to unexpected phone calls or company, to retrieve towels or clothing, or to tend to another child in the home. Some caregivers left the victims unattended for more deliberate reasons such as performing household chores, playing video games, or watching television.

The remaining three deaths reportedly occurred while the caregiver was with the child in the bathroom. In two of these cases, the caregivers reportedly turned away momentarily and looked back at the victims to find them face down in the water. In the other case, the caregiver saw the incident occur but panicked briefly.

In 31 of the 78 deaths (40%), the victim was put into the bathtub with another child (or children). However, not all of these other children were still in the bathtub when the drownings occurred.

Most of the caregivers involved in the reported incidents were parents. Sixty-six of the victims were being cared for by a parent or a parent and another family member. The remaining twelve children died while under the supervision of a baby sitter. The youngest caregiver was 11 years old.

*2. Hazard Scenarios*

The Commission staff has identified six main hazard scenarios associated with bath seat/ring deaths and incidents. While not all of the deaths and near misses under each listed hazard scenario would be addressable due to the unusual circumstances in some of the cases, six identified hazard scenarios are discussed below.

*Bath seat tipping over.* In 24 fatalities and 56 non-fatal incidents and complaints the bath seat/ring was reported to have tipped over submerging the child in the water or allowing the child to escape the confines of the seat. In the incidents in which the seat was reported to have tipped over, the suction cups may have contributed because they failed to adhere to the tub surface; they adhered but the legs of the seat separated from the suction cups; or the suction cups were missing. It does not appear that one manufacturer's products were involved in significantly more fatal tip-over incidents than any other manufacturer's products.

*Infant came out of the seat.* In 14 fatalities and eight non-fatal incidents it was reported that the infant was found outside of the upright seat. Presumably in these incidents the child came over the top of the seat.

*Entrapment and submersion.* In 3 deaths and 15 non-fatal incidents and complaints it was reported that the infant slid through the leg opening, becoming trapped and submerged in the water. In the 3 fatalities the leg openings on the bath seats were large enough for the infants to fit both legs through one opening but not large enough to allow the shoulders and head to pass through. The infants died because their faces were partially or completely submerged in the bath water.

*Infant slumped over bath seat.* In 8 fatalities and 2 non-fatal incidents and complaints the infant was reported to have ''slumped over'' the bath seat rim. Although the water depth data provided in these cases is limited, water depth could have played a role in these incidents.

*Overflowing water.* In 2 fatalities and one non-fatality the bath water was reported to have overflowed. One death involved a 5-month-old child in a laundry tub. The other death involved an 8-month-old victim in a bathtub.

*Bath seat breaking.* The Commission received 11 complaints of bath seats breaking during use. The complaints included bath seat legs breaking or detaching, the rings around the child breaking, mats ripping away from the legs/suction cups and the bath seat cracking.

*No scenario determined.* In the remaining 27 fatalities and 17 non-fatal incidents and complaints, information was insufficient to determine a hazard scenario. These include incidents where children were found in water, but the position of the bath seat was unknown; incidents where the bath seat was upright, but the position of the child was unknown, and incidents where the circumstances were unknown or uncertain.

**D. 1993 Focus Group**

In preparation for the 1994 Commission briefing on bath seats/rings, Human Factors staff worked with a contractor to conduct consumer focus groups to learn more about how consumers use bath seats/rings. The groups provided a variety of information regarding bathing children, bath time supervision habits, and use of bath seats/rings. The following points summarize participants' responses regarding leaving children in the bathtub for a short period of time:

(1) Despite an intellectual knowledge of the hazard of drowning, and agreement that children should never be left alone in the bath, some participants acknowledged having done so, albeit infrequently, and typically for only a few moments.

(2) Responses suggested that, although emergency situations occur, they are not the primary reason that caregivers turn away from a child in the bath. Participants reported that practical, non-emergency reasons, such as needing a towel, pajamas, or a diaper were more likely reasons for leaving the child.

(3) Participants' responses indicated that uneventful experiences with leaving a child unattended in the bath tended to encourage repetition of this behavior.

(4) In general, participants perceived bath rings as convenience items rather than as safety devices. However, responses suggested that some users gained a sense of security from the sets/rings, and believed the child was safer in a bath seat/ring. These included comments that they believed their child was less likely to stand up or slip around if they were restrained in a bath seat/ring.

(5) The sturdier, more luxurious-looking bath rings/seats were preferred by most participants, and were perceived to be safer than more basic models.

(6) Young children are frequently bathed with their older siblings. Therefore, the bathtub is typically filled to meet the needs of the oldest child in the tub. In addition, the presence of older siblings, especially those considered mature, increases parents' confidence that their young child will be safe if they must leave the bathroom for a moment. Participants were unable to come to any consensus regarding at what age a child can be trusted in the bath alone or at what age a sibling is old enough to supervise a younger child in the bath.

**E. Research reported by Dr. N. Clay Mann**

Petitioners refer to recent research conducted by Dr. N. Clay Mann under the auspices of a co-petitioner, the Intermountain Injury Control Research Center at the University of Utah. Dr. Mann compared infant drowning deaths in bathtubs with infant drowning deaths in bathing aids in bathtubs. The petitioners cite two main conclusions from Dr. Mann's presentation. First, Dr. Mann characterized caregivers' recollections as to why they left a child unattended in the bathtub as more likely

to be willful as opposed to impulsive when there was a bath seat present in the bathtub. Second, Dr. Mann's analysis found that the water at the time of the fatal incident was deeper in incidents involving baby bath seats than in bathtubs without a bath seat, and that the difference was statistically significant.

CPSC staff analyzed the bath seat and bathtub data Dr. Mann used in his research. Although the staff's analysis yielded slightly different results, the basic conclusions were the same. CPSC staff found that when a bath seat was involved caregivers were more likely to cite a conscious or willful decision for leaving the child alone than when there was a bathtub drowning with no bath seat involved. Staff also found a slightly higher water depth for those deaths where children were in bath seats.

According to CPSC staff's analysis of the hazard scenarios, the water depth may be an issue in the situations in which the bath seat is upright and the infant slumps over the seat rim or when the infant comes out over the top of the seat; however, the water depth data was very limited and therefore no conclusions could be made.

**F. Relevant Statutory Provisions**

The petition was docketed under the FHSA, 15 U.S.C. 1261 *et seq.* Section 2(f)(1)(D) of the FHSA defines ''hazardous substance'' to include any toy or other article intended for use by children that the Commission determines, by regulation, presents an electrical, mechanical, or thermal hazard. 15 U.S.C. 1261(f)(1)(D). An article may present a mechanical hazard if ''in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness.'' 15 U.S.C. 1261(s).

Under section 2(q)(1)(A) of the FHSA, a toy, or other article intended for use by children, which is or contains a hazardous substance accessible by a child is a ''banned hazardous substance.'' 15 U.S.C. 1261(q)(1)(A).

Section 3(f) through 3(i) of the FHSA, 15 U.S.C. 1262(f)–(i), governs a proceeding to promulgate a regulation determining that a toy or other children's article presents an electrical, mechanical, or thermal hazard. As provided in section 3(f), this proceeding is commenced by issuance of this ANPR. After considering any comments submitted in response to this ANPR, the Commission will decide whether to issue a proposed rule and a preliminary regulatory analysis in accordance with section 3(h) of the FHSA. If a proposed rule is issued, the Commission would then consider the comments received in response to the proposed rule in deciding whether to issue a final rule and a final regulatory analysis. 15 U.S.C. 1262(i).

**G. Regulatory Alternatives**

One or more of the following alternatives could be used to reduce the identified risks associated with baby bath seats and rings.

1. *Mandatory standard.* The Commission could issue a standard that would ban any baby bath seats or rings that did not comply with the specified standard. Thus, if the Commission found that some modifications to baby bath seats/rings were possible that would adequately reduce or eliminate the risk of injury associated with the current product, the Commission could issue such a standard-setting rule.

2. *Mandatory labeling rule.* Similarly, the Commission could issue a rule banning bath seats and rings that did not contain specified warnings if it found that such warnings could sufficiently reduce the risk of injury associated with baby bath seats/rings.

3. *Voluntary standard.* If the Commission determined that a voluntary standard was adequate to address the risk of injury associated with the product, the Commission could defer to the voluntary standard in lieu of issuing a mandatory rule.

4. *Banning rule.* The Commission could issue a rule declaring baby bath seats and bath rings to be banned hazardous substances.

**H. Existing Standards**

When the Commission first examined baby bath seats in 1994, no mandatory, voluntary or international standards addressed drowning while using baby bath seats and rings. Currently, the Commission is aware of one voluntary standard relating to bath seats, the ASTM F1967–99 Standard Consumer Safety Specification for Infant Bath Seats (first published in June 1999). During August and September 1999, additional requirements for improved performance of suction cups and latching/locking mechanisms were balloted; ASTM estimates that the revised standard will be published by July 2001.

*1. Provisions of the Bath Seat Voluntary Standard*

According to the statement of scope in the standard, ''This consumer safety specification establishes performance requirements, test methods, and labeling requirements to promote the safe use of infant bath seats.'' A summary of the major requirements in this standard follows:

*Stability.* This requirement addresses the bath seat's resistance to tipping over during normal use. The provision is intended to ensure that new bath seats' suction cups properly attach to the bathtub surface.

*Restraint.* Bath seats must provide a passive crotch restraint to prevent the occupant from sliding out through the product. For bath seats on the market this requirement is met by a fixed vertical bar between the infant's legs. The standard also specifies that bath seats shall not include additional restraints that require action by the user. The rationale for this requirement was that a redundant system would give the caregiver a false sense of security.

*Resistance to Folding.* If the bath seat folds, it is required to have a latch or locking mechanism to prevent the unit from unintentionally folding during use.

*Labeling.* The standard requires a warning label on the product, instructions, and packaging consisting of the safety alert symbol (an equilateral triangle surrounding an exclamation point), the signal word WARNING in all capital letters and the following two sentences: ''Prevent drowning. ALWAYS keep baby within arms reach.'' The signal word and all other capital letters shall be in san serif type-face with letters not less than 5 mm (0.2 inches) in height, with all remainder of the text not less than 2.5 mm (0.1 inches) in height. The warning must be located on the product so that it is visible to the adult caregiver and must be a contrasting color to the background. If the bath seat is not recommended for use on a slip-resistant surface, an additional warning label stating this is required only on the package.

*2. Concerns About the Bath Seat Voluntary Standard*

After reviewing the voluntary standard, the staff is concerned that provisions for stability of the seat, suction cup operation, occupant retention and labeling may not adequately address the drowning hazard.

All bath seats currently on the market rely on suction cups to keep the seat stable. The stability of the seat is greatly affected by the existence or performance of the suction cups. If suction cups are missing or detach from the tub surface or the bath seat, it is more likely that the bath seat will tip over when the occupant leans out over the rail. The stability test in the voluntary standard addresses suction cup performance but not performance over time or on non-smooth or dirty surfaces. The suction

cups operate by creating an air or watertight seal between the bathtub surface and the bottom of the suction cup material. A leak in the seal between the suction cup and bathtub surface allows air or water to leak under the suction cup resulting in detachment of the suction cup from the tub surface. A rough tub surface would allow such a leak to occur. The suction cups used on bath seats will not adhere to textured bath surfaces or slip resistant surfaces. Dirt or soap scum build up could also degrade the performance of the suction cups.

The occupant retention system currently required by the ASTM F1967 standard for bath seats is a passive crotch restraint. A center post is the most common form of passive restraint used on bath seats and is intended to prevent the infant from slipping down and out of the bath seat. However, the standard does not have any leg opening size requirements, and staff is aware of three deaths when infants got both legs through a leg opening and became trapped and submerged under water because their shoulders and head could not pass through the opening.

Moreover, this type of passive restraint does not prevent the infant from climbing out of the bath seat. Also, the ASTM F1967 bath seat standard does not allow additional user activated restraints because the subcommittee believed that this would provide the caregiver with a false sense of security and could increase the likelihood that a parent might leave a child unattended.

According to the Division of Human Factors, warning labels have limited effectiveness on user behavior when the product is familiar and perceived to be benign. Warning labels are the least effective way to address a hazard and, if possible, should not be relied upon as the sole means of preventing deaths and injuries. This is particularly true when the product is familiar and perceived to be benign.

The voluntary standard also requires a label on the packaging of the product, but not the bath seat itself, advising consumers not to use the product on non-skid bathtub surfaces. This label is likely to have limited effectiveness because (1) it fails to explain to the user the hazard of using the product on a slip-resistant surface (i.e., suction cup failure), and (2) the product's packaging is not likely to remain with the product and the message is lost to anyone who does not see the packaging. This type of product is likely to be handed down to family and friends with young children or sold at garage sales without the packaging.

*3. Voluntary Standard for Slip Resistant Tub Surfaces*

The Commission is aware of an ASTM standard for slip-resistant bathtub surfaces, ASTM F 462–79 (reapproved 1999) ''Standard Consumer Safety Specification for Slip-Resistant Bathing Facilities.'' According to the Plumbing Manufacturers Institute (''PMI''), this standard is used for most enameled-coated steel tubs but not for plastic tubs. Suction cups will not adhere to slip resistant surfaces. Therefore, this standard could affect the performance of bath seat suction cups.

**I. Public Comments on the Petition**

The Commission published a **Federal Register** notice asking for comments on the petition when it docketed the petition. 65 FR 50968 (August 22, 2000). The Commission received 66 comments in response to the notice. Of those 66 comments, 45 were a form letter expressing the same concerns as those of the petitioner and asking the Commission to support the petition to ban bath seats. Seventeen other comments also supported the petition and expressed concerns about the hazards involving bath seats. Three comments discussed in-depth why the CPSC should deny the petition. Finally, one consumer provided information both supporting and opposing the petition.

Discussed below are the eight primary issues raised in the comments and the Commission's responses to those issues. The numbers found in parentheses after a comment refer to the commenter number assigned by the Office of the Secretary. The letters ''FL'' refer to the form letter used by many of the commenters.

*1. Unreasonable Risk*

*Comment:* According to most commenters, 66 deaths from January 1983 to June 2000 and 37 near-drownings are too many. They note that when the Commission first looked into the hazards involving bath seats there had been 13 deaths in 10 years. In the following 6 years, 53 additional deaths occurred. They viewed this as an unreasonable risk because of the ''alarming'' number of deaths with a product that they stated had a useful life of only 2 months. (FL, #20, 24, 28, 56, 58, 60)

*CPSC Response:* The Commission is also concerned about the number of deaths. CPSC staff has identified 78 deaths and 110 non-fatal incidents from January 1983 to May 2001. However, the large number of incidents reported to CPSC from 1995 through 2001 are not necessarily due to an increase in frequency of the events. After the Commission's actions in 1994, staff increased data collection efforts by investigating all bathtub drowning deaths. Media attention increased public awareness of the hazard and number of deaths, thus increasing the reporting of the incidents. Because of the increased efforts of data collection on infant drownings, CPSC staff is confident in the completeness of the bathtub drowning data. These continued efforts should allow for trend analysis in bath seat-related drowning deaths. Death data prior to 1994 and incident data are anecdotal and should not be used to suggest trends.

*2. False Sense of Security*

*Comment:* Many commenters quoted research conducted by Dr. N. Clay Mann that suggests parents and caregivers of infants who use bath seats engage in more risk-taking behavior than non-bath seat users. These commenters argue that bath seats are viewed as safety devices and thereby provide the user with a false sense of security. The petitioners and almost all of the comments from consumers in favor of granting the petition indicated that the product leads the user to believe that the child is ''safe'' in the bath seat in the water. (FL, #1, 54, 56, 59, 60, 62)

Some commenters stated that the product may not claim to be a ''safety device'' but it certainly gives the impression it is, especially those with the brand name ''Safety 1st'' on the package. (#13, 16, 28, 40, 64)

One commenter, who opposes the petition, stated that the product does not cause a false sense of security, but rather the caregiver undertakes risky behavior because previous behavior resulted in no injury. (#53)

Another commenter, who also opposes the petition, stated, ''The unreasonable actions of caregivers who leave infants unattended in bathtubs, whether or not a bath seat or ring is used, results in the hazards, with tragic consequences. This behavior itself defies the common sense approach used by 99.999% of the population and is unreasonable. As we have noted, the products themselves performed properly and as intended. It was not the normal or even foreseeable misuse of the product that creates the hazard, but rather the unreasonable behavior of the caregiver. No standard, whether mandatory or voluntary, can address this risk.'' (#63)

*CPSC Response:* Various sources [3] indicate that many consumers purchase the product for safe handling of babies and convenience reasons. Consumers may not be ready to bathe their infants in a regular size bathtub and, therefore, are looking for a device to help them contain a wet, slippery, squirmy infant.

In determining whether a product presents a mechanical hazard, the Commission considers the product's normal use and reasonably foreseeable abuse. *See* 15 U.S.C. 1261(s). Some caregivers may perceive that the product provides a greater degree of safety than it does. Leaving the child alone could be considered a reasonably foreseeable abuse of the product.

The Commission agrees that babies should never be left alone in water, whether with a bath seat or not and intends to undertake an aggressive information and education campaign to reinforce this message. In some incidents, the hazard scenario was unclear. However, the available information indicates that some aspects of bath seat design appear to have been a factor in the deaths of a number of infants. In the course of rulemaking, the Commission will examine ways to address these design-related hazards.

*3. Bath Seat Incompatible With Bathtubs*

*Comment:* Several comments pertained to the current voluntary standard, ASTM F 462–79 (reapproved 1999) ''Standard Consumer Safety Specification for Slip-Resistant Bathing Facilities.'' This standard establishes slip-resistance surface requirements to minimize injuries in tubs and showers. The commenters indicated that suction cups that are used to adhere the bath seats to the tub surface do not work on slip-resistant surfaces. (FL, #2, 28, 59, 60, 64)

Another commenter, who opposes the petition, stated, ''As we have noted, the products themselves performed properly and as intended.'' However, that same commenter indicated that the data show suction cups on the seats failed on smooth surface bathtubs not just slip-resistant surfaces. (#63)

*CPSC Response:* According to CPSC Engineering Sciences staff, adherence of the suction cup to the bathtub surface requires an adequate seal between the mating surfaces. Suction cups used on bath seats will not adhere to textured bath surfaces or slip-resistant surfaces. Dirt or soap scum build up could also degrade the performance of the suction cup. However, dissolved or suspended particles in the bath water such as oils and soap should not affect the suction cup adherence to the tub.

The Commission disagrees with the commenter's statement that the ''products themselves performed properly and as intended.'' In certain of the incidents, the products did not perform as intended. In 24 of the 78 fatalities and 56 reported non-fatalities, the bath seats detached from the tub surface and tipped over. In addition, many consumers reported on an opinion website that they were using the bath seat when all of a sudden, without any warning the seat tipped over and the child was under the water. In some of these incidents the consumers stated that they had used the product a number of times before and occasionally had difficulty removing the suction cups when bath time was over. Other consumers indicated that right from the start they had trouble with the suction cups only working some of the time.

CPSC data are inconclusive about the types of surfaces on which the tip-overs occurred, so CPSC is unable to verify the commenter's assertion that data show seats failed on smooth surface tubs. However, there were a number of comments on the Internet in which consumers specifically state that their tubs had smooth surfaces and the suction cups failed.

*4. Labeling—Slip Resistant Surfaces*

*Comment:* A few commenters stated that the label warning against the use of the bath seat on non-skid tubs should be on the product, not just the package. Due to the short useful life of the product, the bath seat is likely to be passed on to other family members or friends without the box. This makes the label ineffective for these other users. (#2, 59)

*CPSC Response:* CPSC agrees with the comments that a warning label only on the packaging and not on the product is likely to be less effective than a label placed on the product. The effectiveness of this label is limited for two reasons. First, it fails to explain to the user why the product should not be used on non-skid bathtub surfaces (suction cup failure). Second, the product's packaging is not likely to remain with the product; therefore, the message is lost to anyone who does not see the packaging.

*5. Labeling—Keep Child Within Arm's Reach*

*Comment:* Regarding the labeling warning to keep the child within arm's reach, a commenter who is against the petition, referenced information from CPSC focus groups that were conducted in 1993. The commenter states ''Almost all of the parents surveyed recalled the warnings on the product, packaging or instructions and view it as an important reminder that the consequences of leaving an infant alone in the bathtub could be drowning. This fact undercuts the Petitioners' argument that the warnings are not noticed and are ineffective.'' (#63)

*CPSC Response:* The Commission disagrees with the commenter's conclusion that the focus group results which showed that consumers recalled the warning label are evidence that undercuts the arguments that warnings are not noticed and ineffective. According to the focus groups, consumers were able to recall the warning not to leave a child unattended. However, the focus group members also reported situational variables that made them comfortable leaving a child unattended. Those variables include using a bath ring/seat, having an older sibling in the bath, and being able to see and hear the child even though they had physically left the bathroom.[4] Judging from the focus group's comments and the actions of the caregivers in the fatal and non-fatal incident data who left the child alone in bath rings/seats, in those instances the warnings were ineffective.

*6. Water Depth*

*Comment:* A couple of commenters expressed the belief that if parents are not given proper guidance they will fill the tub with more water than is necessary. They stated that the bath seats should be marked with a ''water line'' so caregivers don't fill the water higher than the ''safe level'', since too much water increases chances of drowning. (#2, 64)

One comment from a consumer against the petition states, ''The marker should be set at a point where in case the baby fell out of the seat, he or she would not be in danger of drowning.'' (#53)

*CPSC Response:* The Commission will consider the merits of having a ''waterline'' on the product. There is no ''safe'' water level to prevent drownings that occur in the tub, but outside of the bath seat (or in cases where a seat tips over with the child still in it). However, a maximum water level mark, as reflected by guidance on the product, could help prevent drownings that occur when overly deep water either causes infants to come out of the seat or

[3] Sources included: CPSC focus groups results, IDIs, consumer opinions on internet website and marketing information.

[4] ''A Focus Group Study to Evaluate Consumer Use and Perceptions of Baby Bath Rings/Seats CPSC–R–93–5839'' by Shugoll Research.

covers their faces if they slump forward or backward in the seat.

*7. Bath Seat vs. Bathtub*

*Comment:* One of the comments against the petition states that on average 4 children per year drown in bath seats while ''in excess of 50 infants under one year of age are estimated to drown because caregivers fail to watch infants in bathtubs.'' This commenter believes that ''statistically, it seems that children are safer when caregivers use bath seats compared to when they are not in use.'' (#63) Another comment, also against the petition, stated that on average there are 9 bath seat drownings and 41 bathtub drownings as a result of the primary caregiver leaving the child alone. (#61)

*CPSC Response:* Averaging the 78 deaths over 18 years produces an average of 4 bath seat deaths a year. However, due to incomplete reporting, especially in the first years of data collection on this subject, this average is not an adequate statistic. The commenter fails to incorporate the number of users into his comparison of bathtub deaths and bath seat deaths. Since more children are bathed in a bathtub than in a bath seat, one would expect the number of children who die in bathtubs to be greater than the number of children who die in bath seats. In addition, the quoted 50 deaths per year includes bath seat deaths and deaths in bathtubs with other products.

The Commission staff has performed a more detailed analysis in an attempt to calculate the relative risk of children drowning in bathtubs with and without a bath seat. Staff analyzed drowning data from 1994 through 1998 in conjunction with bath seat ownership rates from the Baby Products Tracking Study. The focus was on children between 5 and 10 months old and children who were placed in the bathtub or seat by the caregiver for the purposes of receiving a bath.

Based on this analysis, the overall risk of death of drowning for children between 5 and 10 months old is slightly lower when a bath seat is present than when no additional bath aid is present. Due to the developmental differences in children between 5 and 10 months, staff felt it necessary to look at the risk of drowning for each month of age of the recommended user. This data showed similarities among 5, 6, and 7 month old children and similarities among children 8, 9, and 10 month olds. The data suggest that children 5 to 7 months old may be more at risk of death when bathed in a bath seat than when bathed in a bathtub. At 8 to 10 months, the risk of death is greater in a bathtub than in a bath seat. The Commission cautions that the small numbers and the use of ownership data as opposed to usage data make it difficult to draw firm conclusions about relative risk.

The Commission reviewed data from the National Center for Health Statistics (''NCHS'') on bathtub drowning deaths to children under one year of age to look at long-term drowning data. The number of bathtub drowning deaths and the risk of death per live birth slightly increased through the 1980's and has declined in the 1990's. These data, however, include incidents with bath seats, other bathing products, and incidents where children climbed or fell into bathtubs, as well as incidents where children drowned while taking a bath. Therefore, we cannot extract trends in bath seat deaths over this time period. The Commission does not have information from which to attribute a cause of the decline in infant bathtub drowning deaths.

*8. Current Bath Seat Voluntary Standard*

*Comment:* Three of the comments supporting the petition stated that the current ASTM F1967–99 ''Standard Consumer Safety Specification for Infant Bath Seats'' is ineffective in addressing the hazard of bath seat drownings. One consumer called the standard a ''performance'' standard rather than a ''safety'' standard. (#40) Another stated that the standard failed to adequately address the leg opening problem, the efficacy of suction cups, the lack of a water line, and the failure to label the product regarding non-skid surfaces. (#2) The third consumer felt the standard was inadequate because it called for ''no significant structural changes to existing bath seat designs.'' (#54)

One comment against the petition states that ''the voluntary standard addressed most of all of the CPSC staff recommendations.'' (#63)

*CPSC Response:* The Commission agrees that there are concerns with the adequacy of the voluntary standard. These concerns are discussed in detail in section H.2. above. The current voluntary standard was not intended to address all hazard scenarios. As noted, the current voluntary standard does not address leg-opening requirements. CPSC is aware of 3 fatalities and 15 non-fatalities in which infants slipped partially through the leg opening and became trapped and submerged under water. Although the voluntary standard has requirements for testing the stability of the seat, the test is performed using a new bath seat on a simulated bathtub surface and does not address suction cup performance over time or suction cup performance on non-smooth or dirty surfaces. CPSC data show 24 fatalities and 56 non-fatalities occurred when the seat tipped over. In most of these cases the suction cups played a part in the tip-over by either failing to adhere to the tub surface; adhering to the surface but separating from the seat legs; or from being missing. The adequacy of the requirement for labeling on the package concerning non-skid surfaces is also questionable because it does not specifically identify the hazard and because the label is only required for the package.

The voluntary standard does not require a waterline, and Commission staff in the past has agreed with this approach. While there is no ''safe'' water level for children who are in the tub but outside of their bath seat (or where the seat tips over and the child remains in it), encouraging less water in the tub through some mark on the product could reduce the incidents of infants drowning by coming out of the bath seat or when they slump over in their seats.

The staff recommendations that were provided to the voluntary standards' working group were intended to make bath rings/seats less dangerous. The staff's position as reported in the May 1994 briefing package stated: ''Based on current research, labeling is known to have limited effect on user behavior, particularly when the product is familiar and perceived to be benign. Judging from the IDIs, the effectiveness of the current label is questionable, but for the sake of those who may read and heed it, a more specific and direct warning such as 'Stay in arm's reach of baby in bath seat * * *' was recommended.'' The ASTM committee did adopt the staff recommended labeling and adopted certain requirements for suction cups at the Commission staff's request. Also, staff recommended leg-opening requirements that were not included in the standard.

**J. Solicitation of Information and Comments**

This ANPR is the first step of a proceeding that could result in a mandatory rule for baby bath seats and rings to address the described risk of injury. All interested persons are invited to submit to the Commission their comments on any aspect of the alternatives discussed above. In accordance with section 3(f) of the FHSA, the Commission solicits:

1. Written comments with respect to the risk of injury identified by the Commission, the regulatory alternatives

being considered, and other possible alternatives for addressing the risk.

2. Any existing standard or portion of a standard which could be issued as a proposed regulation.

3. A statement of intention to modify or develop a voluntary standard to address the risk of injury discussed in this notice, along with a description of a plan (including a schedule) to do so.

In addition, the Commission solicits the following specific information:

1. Information on the useful life of currently produced bath seats;

2. Information on the potential effect of any regulatory action on firms, including small entities;

3. Information on potential loss of consumer utility from any regulatory action;

4. Information on mechanisms to enhance stability/retention, especially in tubs with non-skid surfaces;

5. Information on the appropriate mechanisms to prevent infants from sliding through the bath seat (''submarining'');

6. Any exposure data and/or any calculations relative to the risk of drowning in bath tubs with or without bath seats;

7. Any other information available related to the potential costs and benefits of a rule.

Comments should be mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207–0001, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814; telephone (301) 504–0800. Comments also may be filed by telefacsimile to (301) 504–0127 or by email to cpsc–os@cpsc.gov. Comments should be captioned ''ANPR for baby bath seats.'' All comments and submissions should be received no later than October 1, 2001.

Dated: July 26, 2001.

**Todd Stevenson,**

*Acting Secretary, Consumer Product Safety Commission.*

**List of Relevant Documents**

1. Briefing memorandum from Ronald Medford, Assistant Executive Director, Office of Hazard Identification and Reduction and Celestine Kiss, Project Manager, Division of Human Factors, to the Commission, March 30, 2001.

2. Petition HP 00–4 from the Consumer Federation of America, The Drowning Prevention Foundation, et al. to Ban Baby Bath Seats, July 25, 2000.

3. Memorandum from Mary F. Donaldson, Directorate for Economic Analysis, ''Baby Bath Seat Petition, HP–00–4,'' February 16, 2001.

4. Memorandum from Suad W. Nakamura, Ph.D., Physiologist and Sandra E. Inkster, Ph.D., Pharmacologist, Directorate for Health Sciences, ''The Pathophysiology of Drowning,'' December 7, 2000.

5. Memorandum from Debra Sweet, Division of Hazard Analysis, ''Hazard Analysis Memorandum for Bath Seat Petition,'' January 29, 2001.

6. Memorandum from Celestine T. Kiss, Division of Human Factors, ''Human Factors Response to Bath Rings/Seats Petition (HP–00–04),'' January 25, 2001.

7. Memorandum from M. Kumagai, Directorate for Engineering Sciences, ''Review of BATH SEAT ASTM STANDARD F1967 and Response to Comments to Petition HP 00–4,'' March 2, 2001.

8. Memorandum from M. Kumagai, Directorate for Engineering Sciences, ''Evaluation of Bath Seat Design,'' March 2, 2001.

9. Letter dated May 7, 2001 from Dr. Kimberly Thompson to Chairman Ann Brown re: Comments on Briefing Package Petition No. HP 00–4, Request to Ban Baby Bath Seats.

10. Memorandum dated May 21, 2001 to the Commission from Debra Sweet, Statistician, Division of Hazard Analysis, re: Comments from Kimberly M. Thompson, Sc.D., on Briefing Package for Petition HP 00–4, Request to Ban Baby Bath Seats.

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

### 32 CFR Part 199

**RIN 0720–AA65**

## Civilian Health and Medical Program of the Uniformed Services; Individual Case Management Program for Persons with Extraordinary Conditions (ICMP–PEC)

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Defense (DoD) proposes to amend its regulations on the Individual Case Management Program (ICMP) to implement requirements stipulated by Section 703 of the Fiscal Year (FY) 2000 National Defense Authorization Act, Section 8118 of the FY 2000 Defense Appropriations Act, Section 701 of the FY 2001 National Defense Authorization Act and Section 8100 of the FY 2001 Defense Appropriations Act. Other administrative amendments are also proposed to clarify specific policies that relate to the program. Public comments are invited and will be considered for possible revisions to the final rule.

**DATES:** Written comments will be accepted until October 1, 2001.

**ADDRESESES:** Please address all comments concerning this proposed rule to Mary Stockdale, Program Development Division, TRICARE Management Activity (TMA), Suite 810, 5111 Leesburg Pike, Falls Church, VA 22041.

**FOR FURTHER INFORMATION CONTACT:** Mary Stockdale 703–681–0039.

**SUPPLEMENTARY INFORMATION:**

### I. Background

Congressional actions in the last two fiscal years make important changes to the TRICARE Individual Case Management Program (ICMP). These actions continue the long-standing TRICARE/CHAMPUS definition of custodial care for purposes of the statutory exclusion from coverage under the basic TRICARE program. In addition, they reaffirm congressional policy of addressing the health care needs of custodial care patients through the TRICARE ICMP.

To distinguish this special waiver program from other normal case management functions under the basic TRICARE program and to more clearly identify the type of beneficiaries for which it is intended, the program name is now expanded to the Individual Case Management Program for Persons with Extraordinary Conditions (ICMP–PEC). It is also important to distinguish the ICMP–PEC from the Program for Persons with Disabilities (PFPWD). The PFPWD is applicable only to family members of active duty service members and the benefit is limited to $1,000 per month. Its purpose is to provide financial assistance to reduce the effects of mental retardation or a serious physical disability. It is not a stand-alone program, is subject to certain restrictions, and it may be used concurrently with other TRICARE medical programs like the ICMP–PEC.

### II. Synopsis

This brief synopsis summarizes the primary requirements that are now applicable to the ICMP–PEC.

*A. Custodial care continues to be statutorily excluded as a benefit under the basic TRICARE program.*

*B. The definition of custodial care in the CHAMPUS regulation remains in effect.*

*C. In some cases, however, otherwise excluded custodial care benefits may be extended through the ICMP–PEC to eligible beneficiaries who have extraordinary medical or psychological disorders and for whom custodial care services are medically necessary and appropriate and require the supervision of trained health care providers.*

To be authorized, such custodial care services must meet specified terms and conditions to ensure they are provided in a cost-effective manner. Such services may *not* include services that provide only for the essentials/activities of daily living unless such services are incidental to the provision of authorized skilled care.

*D. The previous 365-day limit to custodial care services under the ICMP–PEC is no longer in effect as of October 5, 1999.*

*E. ICMP–PEC services are primary to Medicaid, other welfare programs, or charity-based care, but secondary to Medicare or other health insurance. However, benefits may be coordinated with Medicaid, other welfare or charity-based programs to ensure TRICARE beneficiaries receive the maximum level of benefits available to them in their communities as long as the primary payer status of ICMP–PEC services is maintained.*

*F. The total amount that the Department may pay for services provided to all beneficiaries granted coverage under the ICMP–PEC together with the costs of administering the program may not exceed $100,000,000 within each fiscal year.*

**III. Statutory History of ICMP–PEC**

In 1985, Congress directed the DoD to conduct a demonstration project of providing home health care to certain CHAMPUS beneficiaries. [DoD Appropriations Act, 1986, Pub. L. 99–190, Section 8084.]

In 1987, Congress enacted a similar provision that required the Department to conduct an expanded demonstration project of providing home health care as part of an individualized case-managed program that included a range of benefits that reasonably could deviate from otherwise payable types, amounts and levels of care for patients with exceptionally serious, long-range, costly and incapacitating physical or mental conditions. [DoD Appropriations Act, 1988, Pub. L. 100–202, Section 8071.] A similar provision was enacted the following year. [DoD Appropriations Act, 1989, Pub. L. 100–463, Section 8058.] Based on these two demonstration projects, in 1991 the House and Senate Appropriations Committees directed the Department to investigate the possibility of including comprehensive home health care as a CHAMPUS benefit and report to Congress on its findings. In 1992, the Department provided its Report to Congress: Comprehensive Home Health Care as a CHAMPUS Benefit, H. Rept. No. 102–95, p. 89; S. Rept. No. 102–154, p. 37. The report was based on the findings from the evaluation of the CHAMPUS Home Health Care Case Management Demonstration Program which concluded that the program goals had been achieved. It emphasized the value of case management for those patients who are medically catastrophic and complex to support the provision of high quality and cost-effective care. This led to the provision of Section 704 of the National Defense Act for FY 1993. [Pub. L. 102–484.], which enacted 10 U.S.C. 1079(a)(17) and provides:

> The Secretary of Defense may establish a program for the individual case management of a person covered by this section or section 1086 of this title who has extraordinary medical or psychological disorders and, under such a program, may waive benefit limitations contained in paragraph (5) and (13) of this subsection or section 1077(b)(1) of this title and authorize the payment for comprehensive home health care services, supplies, and equipment if the Secretary determines that such a waiver is cost-effective and appropriate.

In enacting this provision, Congress took another major step to direct and allow the Department to, in the words of the previous statute [Pub. L. 100–202, Section 8071]:

> Reasonably deviate from the normal, restrictive statutory coverage for health services for patients with exceptionally serious, long-range, costly and incapacitating conditions.

A dominant statutory restriction affecting health care for such patients is the statutory exclusion of custodial care. [10 U.S.C. Section 1077(b)(1).] This exclusion is made applicable to CHAMPUS by 10 U.S.C. Section 1079(a) and is implemented in its most important aspect for CHAMPUS by regulations at 32 CFR 199.2 and 199.4(e)(12).

Because these earlier versions of the regulations could have the effect of limiting otherwise medically necessary services, they have been the subject of litigation from time to time. *See,* for example, Barnett v. Weinberger, 818 F.2d953 (D.C. Cir. 1987. The impact of these regulations is also well understood by Congress, which has moved to authorize reasonable exceptions to the statutory and regulatory exclusion of custodial care under the ICMP–PEC.

This was, in fact, a primary reason Congress established the case management program by enacting section 1079(a)(17), and why the statute expressly authorizes a waiver of the custodial care exclusion section of 1077(b)(1) under the ICMP–PEC when the Secretary determines that such a waiver is cost-effective and appropriate. This congressional purpose was explicitly stated in the explanation of the members of the Conference Committee that agreed to the final version of the section 1079(a)(17). The Conference Report [H. Conf. Rept. 102–966, 102d Cong., 2d Sess., 719] explains:

> The conferees believe the case management program is the best approach to address the needs of beneficiaries for whom regular CHAMPUS benefits are limited by the custodial care exclusion and other restrictions contained in the law and CHAMPUS regulations.

The Department continues to agree with the congressional policy that the case management program is the best approach to address the custodial care issue.

**IV. Implementing Regulations**

The new statutory authority was implemented by final regulations issued, after a public comment period, 64 FR 7084–89, Feb. 12, 1999. In view of the discretionary nature of the legislation and the requirement for cost-effectiveness, the Department did not view the legislation as creating a long-term health care program. Therefore, certain conditions were established in the regulations for waiving benefit limitations and authorizing otherwise excluded benefits under ICMP–PEC in order to transition the cases to those existing programs providing services to long-term care patients.

Recognizing that the exclusion of health care coverage when a family member requires custodial care services is both a financial and emotional burden, the Department used the ICMP–PEC authority to transition custodial care patients from TRICARE/CHAMPUS coverage to alternate sources of support services such as Medicaid. To ensure transition out of the ICMP–PEC, the Department included a limitation of ICMP–PEC coverage for a maximum lifetime period of 365 calendar days. Because the ICMP–PEC provides for exceptions to otherwise excluded services, a second condition imposed by

the Department required that the ICMP–PEC be secondarily liable, not only to those health care programs for which TRICARE/CHAMPUS is second payer but also to Medicaid and other welfare programs. Both of these conditions were consistent with the concept that this discretionary program was a transition program; otherwise, the patient would not readily transition to alternate sources of support services as long as ICMP–PEC waives the custodial care exclusion and the alternative sources remain last pay. The ICMP–PEC was viewed as a program enabling TRICARE case managers to work with all sources of support services to help maximize available resources for military families without creating a long-term care program subject to significant funding increases.

In the 1999 session, the Congress specifically considered legislation to address the Department's definition of custodial care under CHAMPUS. If adopted, the language would have dramatically changed the long-standing CHAMPUS definition of custodial care as sought by various groups. The proposed language would have changed the definition of custodial care under the TRICARE Basic Program and limited the custodial care exclusion to services that support activities of daily living. It is important to note, however, that the Congress did not enact the proposed legislation. Rather, by action of the Conference Committee, the proposed legislation was replaced with legislation that left intact the basic CHAMPUS definition and exclusion of custodial care. As enacted as Section 8118 of the DoD Appropriations Act, 2000 [Pub. L. 106–79], the following provision specifically applies only to the ICMP–PEC:

> Sec. 8118. Notwithstanding any other provision of law, for the purpose of establishing all DoD policies governing the provision of care provided by and financed under the military health care system's case management program under 10 U.S.C. 1079(a)(17), the term *custodial care* shall be defined as care designed essentially to assist an individual in meeting the activities of daily living and which does not require the supervision of trained medical, nursing, paramedical or other specially trained individuals: Provided, That the case management program shall provide that members and retired members of the military services, and their dependents and survivors, have access to all medically necessary health care through the health care delivery system of the military services regardless of the health care status of the person seeking the health care: Provided further, That the case management program shall be the primary obligor for payment of medically necessary services and shall not be considered as secondarily liable to Title XIX of the Social Security Act, other welfare programs or charity–based care.

Congress once again implicitly confirmed the Department's implementation of the statutory exclusion of custodial care under CHAMPUS while making significant changes to the ICMP–PEC.

The same is true for other action taken by Congress in 1999. Section 703 of the National Defense Authorization Act for FY 2000 addressed the CHAMPUS custodial care exclusion and the ICMP–PEC in several respects. First, it provided *grandfather* coverage to a number of beneficiaries who had been receiving custodial care coverage under the previous demonstration projects and whose continuing needs would be excluded from coverage under the regulations implementing the statutory custodial care exclusion and not adequately met under the ICMP–PEC exception to that exclusion. Second, it eliminated the 365-day limit on custodial care services under the ICMP–PEC. The Department issued an Interim Policy Memorandum on March 28, 2000, as a temporary measure to incorporate the mandated changes. That memorandum was supplemented on May 1, 2000, to include a requirement that an appeals and hearing procedure be included as part of the ICMP–PEC program.

In the 2000 session, Congress again addressed the ICMP–PEC in several respects. Section 8100 of the DoD Appropriations Act, 2001 [Pub. L. 106–259] reenacted for FY 2001 the provision that had been Section 8118 in FY 2000. Section 701(a) of the National Defense Authorization Act for FY 2001 [Pub. L. 106–398] amended Section 703(a)(1) of the National Defense Authorization Act for FY 2000. It removed the prohibition against providing ICMP–PEC services to the *grandfathered* beneficiaries once they were entitled to hospital insurance benefits under Medicare part A. Section 701(c) amended Section 1079(a)(17) of 10 U.S.C. by adding a subparagraph designation of (A) after (17) and a subparagraph (B), which provides:

> The total amount expended under subparagraph (A) for a fiscal year may not exceed $100,000,000.

The cost limitation of $100 million for the ICMP–PEC is effective for fiscal years after 1999.

Finally, in a separate action that affects the ICMP–PEC, section 712 of the FY 2001 National Defense Authorization Act [Pub. L. 106–398] extends eligibility for TRICARE to persons who previously lost their eligibility upon becoming entitled to hospital insurance benefits under part A of Title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.). Eligibility, which becomes effective October 1, 2001, is contingent upon purchase of Medicare part B under Title XVIII of the Social Security Act.

**V. Program Scope**

Consistent with the authorizing legislation, 10 U.S.C. 1079(a)(17), the ICMP–PEC is a discretionary program that may be established and may waive, for a CHAMPUS-eligible beneficiary, benefit limitations or exclusions otherwise required by law where it is determined that such a waiver is cost-effective and appropriate. It is designed to provide a cost-effective plan of care by targeting appropriate resources to meet the medical needs of a beneficiary with a qualifying medical or psychological disorder.

**VI. Case Management**

Case management is used in many TRICARE/CHAMPUS settings to organize acute and outpatient health care services. The focus of this proposed rule is specifically on the use of case management to address the complex health care needs of catastrophically ill or injured beneficiaries. The ICMP–PEC offers a system for organizing multidisciplinary services often required for management of extraordinary medical or psychological disorders. The objective is to improve the quality of care, control costs, and support patients and families through catastrophic medical events.

Section 1077b(1) of title 10, U.S.Code, specifically prohibits the Military Health System from providing custodial care. Custodial care is therefore prohibited from being provided under the TRICARE basic program. Congress did not define the term custodial care, but prohibited the provision of such care. The original legislative history of the custodial care exclusion suggested that CHAMPUS be patterned after the Federal Employee health Benefits Program, Blue Cross and Blue Shield ''High Option'' plan. The CHAMPUS present definition of custodial care as set forth in 32 CFR 199.2 was derived from that source. A separate definition of the excluded custodial care services for the ICMP–PEC was provided by Congress for the ICMP–PEC under Section 8118 of the FY 00 Defense Appropriations Act [Pub. L. 106–79] and Section 8100 of the FY 01 Defense Appropriation Act [Pub. L. 106–259]. These sections direct that the scope of services available for coverage under the ICMP–PEC for custodial care cases include all medically necessary services not designed essentially to assist an

individual in meeting the essentials/activities of daily living and which do not require the supervision of trained medical, nursing, paramedical or other specially trained individuals. Therefore, it is the Department's policy that, when a waiver of the benefit limits imposed by the custodial care exclusion is granted under the ICMP–PEC, the scope of services to be covered shall be consistent with the language of the legislation. The services and benefits provided under the ICMP–PEC must be medical services and supplies and they must be medically necessary and appropriate. Under the ICMP–PEC, alternatives to current TRICARE/CHAMPUS benefit limitations or exclusions are considered those that are both cost-effective and clinically appropriate. A waiver of benefit limits must be pre-authorized by case managers and may include, but is not limited to, services or supplies such as home health care, medical supplies, back-up durable medical equipment, and extended skilled nursing care. When a waiver of benefit limits imposed by the exclusion of custodial care is granted any service provided under the ICMP–PEC must require the supervision of trained medical, nursing, paramedical or other specially trained individuals. If a CHAMPUS-eligible beneficiary meets all the parameters for waiving benefit limits under the ICMP–PEC, all medically necessary care, as defined under TRICARE/CHAMPUS, will be covered even if the care will only stabilize or maintain life and comfort but not improve the health care status of the beneficiary.

Services or supplies provided in the home by other than CHAMPUS authorized providers of care must fall under the auspices of a home health care agency that has been either authorized by Medicare or licensed by the State in which it operates. Providers of other services as a result of such waivers must meet CHAMPUS requirements as authorized providers or must obtain a specific waiver of that requirement.

In a limited number of cases otherwise meeting ICMP–PEC parameters, a domiciliary care waiver may be granted, but only when the domiciliary care is directly related and essential to the delivery of medically necessary services and no other alternative is available. A domiciliary care waiver may be granted only when it will provide medically necessary services on a short-term or transitional basis from a high cost, normally inpatient setting, to an outpatient setting.

The Department does not interpret the authorizing legislation and recent congressional action as creating a long-term care benefit under the TRICARE ICMP–PEC for medically unnecessary services. This interpretation is based, in part, upon Section 701 of the National Defense Authorization Act for FY 2001, which limits total annual expenditures under the ICMP–PEC to no more than $100 million.

**VII. Eligibility**

Participation in the TRICARE ICMP–PEC program is voluntary and is available for CHAMPUS-eligible beneficiaries, Continued Health Care Benefit Program (CHCBP) enrollees, and those beneficiaries who have been granted continuation of care coverage as former participants in the DoD home health demonstration projects under section 703(a) of the National Defense Authorization Act for Fiscal Year 2000 [Pub. L. 106–65], and section 701(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [Pub. L. 106–398]. Due to the potential for demand for services exceeding authorized expenditures, priority for participation in the ICMP–PEC shall be given first to family members of active duty personnel. This is consistent with longstanding policy firmly established in chapter 55 of title 10, U.S. Code. Authorization for participation by all beneficiaries under the ICMP–PEC shall be subject to availability of funding. At the beginning of each fiscal year, the Department will: (1) Assess available funding and review and prioritize continued coverage for all current participants; and (2) project anticipated new demand by family members of active duty personnel and all other eligible beneficiaries. The Department anticipates that administrative costs for the program will be between one to two percent of the total funds available each fiscal year to cover the cost associated with case management functions. If the current or projected demand is expected to exceed available funding for the fiscal year, a notice of termination will be issued to those participants who will be affected. These notices will include a continued authorization of coverage for a defined transition period not to exceed 60 days. The Department will ensure that all participants are advised when they first enter the program that authorization for services is subject to available funding and may be terminated with a 60-day notice. Should it become necessary, the order of termination from coverage will be: (1) Non-active duty family members participants from last to first authorized; and then (2) active duty family member participants from last to first authorized.

The program covers catastrophically ill or injured beneficiaries who meet the TRICARE definition of custodial care. The parameters for waiving CHAMPUS benefit limits are:

(1) the patient has an existing extraordinary medical or psychological condition;

(2) the patient meets the TRICARE definition of custodial care and can be treated more appropriately and cost effectively at a less intensive level of care;

(3) waiver of certain benefit limits/exclusions is determined to be cost-effective and appropriate;

(4) the ICMP–PEC services have been pre-authorized; and

(5) for patients receiving care at home, there must be a primary caregiver present or the patient must be capable of self-support.

*A. Extraordinary Medical or Psychological Condition*

In general, an extraordinary medical or psychological condition is a clinical condition contained in the latest revision of the International Classification of Disease Clinical Modification, or the Diagnostic and Statistical Manual of Mental Disorders which is complex.

*B. Custodial*

For those beneficiaries with extraordinary medical or psychological disorders who have been determined to be custodial care cases under TRICARE, as defined in 32 CFR Section 199.2, the ICMP–PEC permits the waiver of benefit limits/exclusions to provide clinically appropriate care. That provision mandates a custodial care determination if the patient:

(1) is disabled mentally or physically and such disability is expected to continue and be prolonged, and

(2) requires a protected, monitored, or controlled environment whether in an institution or in the home, and

(3) requires assistance to support the activities/essentials of daily living, and

(4) is not under active and specific medical, surgical, or psychiatric treatment that will reduce the disability to the extent necessary to enable the patient to function outside the protected, monitored, or controlled environment.

A determination of custodial care does not imply that the care being rendered is not required by the patient. It only means that it is the kind of care that is not covered under the basic TRICARE/CHAMPUS program. Care rendered to a beneficiary on a hospital

inpatient basis is not custodial care. In addition, a program of physical and mental rehabilitation that is designed to reduce a disability is not custodial care as long as the objective is a reduced level of care. A reduced level of care, in this context, means a reduction in the kinds and extent of services necessary to address the beneficiary's medical needs. We expect patients and their families will require varying levels of support and time to stabilize following a catastrophic illness. Case managers will determine, on a case-by-case basis, the specific need for waivers to custodial care exclusions. When a waiver of the custodial care exclusion is granted under the ICMP–PEC, the services and benefits provided must be medically necessary, and must require the supervision of trained, medical, nursing, paramedical or other specially trained individuals.

**VIII. Prior Authorization**

Prior authorization from case managers is required before the delivery of any case managed benefits. Because eligibility for a waiver of benefit limits/exclusions is based on an in depth assessment of medical needs, as well as the cost-effectiveness and clinical appropriateness of alternate services, any services provided without prior authorization will not be covered by TRICARE/CHAMPUS. Retrospective requests for coverage under this program will not be authorized.

**IX. Military Health System Case Management Structure**

For effective program implementation, the Department requires establishment of case management programs, as described in this rule, in all TRICARE/CHAMPUS managed care support contracts. Managed Care Support Contractors will be authorized to make available case management services to Military Medical Treatment Facilities (MTFs). MTFs will be provided the opportunity to refer potential candidates to the appropriate TRICARE/CHAMPUS case manager. Where possible, MTFs will provide care and services or supplies in support of regional case management programs.

**X. Denial/Appeals Process**

Beneficiaries and/or providers who dispute either a custodial care determination or a determination of the type or level of care and services authorized under the ICMP–PEC have the right to appeal those decisions under section 199.10 of this Part.

**XI. Program Goal.**

Since the inception of this special discretionary program, the Department has received many helpful suggestions for improvements and enhancements from our beneficiaries, case managers, clinicians and counterparts in other Federal programs. Their valuable insight and support are reflected in the program changes proposed in this rule. The Department's objective with the ICMP–PEC continues to be to improve the quality of care, control costs, and support patients and families with extraordinary needs that are covered by the program in keeping with the requirements mandated by law.

**XII. Regulatory Procedures**

Executive Order (EO) 12866 requires that a comprehensive regulatory impact analysis be performed on any economically significant regulatory action, defined as one that would result in an annual effect of $100 million or more on the national economy or which would have other substantial impacts. The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities. This rule will not significantly affect a substantial number of small entities. This rule imposes no burden as defined by the Paperwork Reduction Act of 1995.

**List of Subjects in 32 CFR Part 199**

Case management, Claims, Custodial care, Health insurance.

For the reasons set forth in the preamble, the DoD proposes to amend 32 CFR part 199 as follows:

## PART 199—[AMENDED]

1. The authority citation for Part 199 continues to read as follows:

**Authority:** 5 U.S.C. 301; 10 U.S.C. Chapter 55.

2. Section 199.2 is proposed to be amended by adding a new definition of Activities of Daily Living to be placed in alphabetical order as follows:

**199.2 Definitions.**

* * * * *

*Activities of daily living.* (See also Essentials of daily living.) Care that consists of providing food (including special diets), clothing, and shelter; personal hygiene services; observation and general monitoring; bowel training or management; safety precautions; general preventive procedures (such as turning to prevent bedsores); passive exercise; companionship; recreation; transportation; and such other elements of personal care that reasonably can be performed by an untrained adult with minimal instruction or supervision.

3. Section 199.4 is proposed to be amended by revising paragraphs (e)(20) and (i) to read as follows:

**199.4 Basic program benefits.**

* * * * *

(e) *Special benefit information.* * * *

(20) Individual Case Management Program for Persons with Extraordinary Conditions (ICMP–PEC). The Individual Case Management Program for Persons with Extraordinary Conditions (ICMP–PEC), authorizes payment for services or supplies not otherwise covered by Program For Persons With Disabilities (PFPWD) or the basic TRICARE program for beneficiaries with extraordinary medical or psychological conditions when they are approved in accordance with section 199.4(i) of this Part. The ICMP–PEC is subject to a cost limitation not to exceed $100,000,000 per fiscal year (together with the costs of administering the ICMP–PEC) in accordance with the provision of 1079(a)(17)(B) of title 10, United States Code. The cost limitation is effective for fiscal years after fiscal year 1999.

* * * * *

(i) Individual Case Management Program for Persons with Extraordinary Conditions (ICMP–PEC). TRICARE benefit limitations can only be waived under the specific policies and procedures established under the authorizing legislation of 10 U.S.C. 1079(a)(17).

(1) *In general.* Case management, as it applies to the ICMP–PEC, is a collaborative process that includes a case manager, beneficiary, primary caregiver, professional health care provider or providers and funding sources to meet the medical needs of an individual with an extraordinary medical or psychological condition. It is designed to promote quality and cost-effective outcomes through assessing, planning, implementing, monitoring and evaluating the options and services necessary to provide required medically necessary services at an appropriate level of care. Payment for services or supplies that are limited or not otherwise covered by the basic TRICARE/CHAMPUS program may be authorized and cost-shared through participation in the ICMP–PEC when it is demonstrated that the services:

(i) are medically or psychologically necessary, and

(ii) require the supervision of trained medical, nursing, paramedical or other specially trained individuals, and

(iii) are cost effective.

Payments will be determined based on provider reimbursement methods like those applicable to similar services under 32 CFR 199.14.

(2) *Fiscal Year Cost Limitation.* The ICMP–PEC is subject to a cost limitation not to exceed $100,000,000 per fiscal year (together with the costs of administering the ICMP–PEC) in accordance with the provision of 1079(a)(17)(B) of title 10, United States Code. The cost limitation is effective for fiscal years after fiscal year 1999.

(3) *Applicability of case management program.* CHAMPUS eligibility, or enrollment in the Continued Health Care Benefit Program (CHCPB), or continued coverage granted for certain beneficiaries as a participant in the former DoD home health care demonstration projects is a legal pre-requisite for participation in the ICMP–PEC. Priority for coverage under the ICMP–PEC shall be given first to eligible family members of active duty service members. This is consistent with longstanding policy firmly established in chapter 55 of title 10, U.S. Code. Authorization of participation by all beneficiaries will be subject to availability of funding. At the beginning of each fiscal year, the Department will: (1) Assess available funding and review and prioritize continued coverage for all current participants to include both health care services and administrative costs; and (2) project anticipated new demand by family members of active duty personnel and all other eligible beneficiaries. If the current or projected demand is expected to exceed available funding for the fiscal year, a notice of termination will be issued to those participants who will be affected. These notices will include continued coverage for a defined transition period not to exceed 60 days. The Department will ensure that all participants are advised when they first enter the program that authorization for services is subject to available funding and may be terminated with a 60-day notice. Should it become necessary, the order of termination from coverage will be non-active duty family member participants from last to first authorized and then active duty family member participants from last to first authorized.

An eligible beneficiary may participate in the case management program if he/she has an extraordinary condition that is disabling and requires extensive utilization of medical resources. The medical or psychological condition must also:

(i) Be contained in the latest revision of the International Classification of Diseases Clinical Modification, or the Diagnostic and Statistical Manual of Mental Disorders; and

(ii) the beneficiary must meet the TRICARE/CHAMPUS definition of custodial care.

(iii) If an eligible beneficiary meets all the parameters for waiving benefit limits under the ICMP–PEC, all medically necessary care, as defined under TRICARE/CHAMPUS, will be covered (subject to availability of funding) even if the care will only stabilize or maintain but not improve the health care status of the beneficiary.

(4) *Prior authorization required.* Services or supplies allowable as a benefit exception under this Section shall be cost-shared only when a beneficiary's entire treatment has received prior authorization for the ICMP–PEC. Authorized services under the ICMP–PEC for custodial care cases may *not* include services that provide only for the essentials/activities of daily living unless such services are incidental to the provision of authorized skilled care. Services for the activities/essentials of daily living include services that do not require the supervision of trained medical personnel. Examples of activities/essential of daily living include basic functions such as dressing, feeding, continence training and care, and transferring in and out of a chair or bed, grooming, and bathing. Retrospective requests for authorization of a waiver of benefit limits/exclusions will not be considered. Authorization of a waiver of benefit limits/exclusions is allowed only when determined to be clinically appropriate and cost-effective.

(5) *Cost effective requirement.* The statutory requirement for cost-effectiveness of the treatment under a waiver of a benefit exclusion or limitation shall be based on a determination that the necessary care is provided in the most cost-effective manner. If a beneficiary is receiving skilled nursing services in the home, and a determination is made that the services could be provided in a more cost-effective manner in a skilled nursing facility, TRICARE will authorize a continuation of benefits under the ICMP–PEC in a skilled nursing facility, or, if benefits are continued in the home, TRICARE cost-sharing will be limited to the amount for which TRICARE would be liable if the services were provided in a skilled nursing facility. The proposed treatment must also meet the requirements of medically or psychologically necessary and appropriate medical care as defined in section 199.2 of this Part.

(6) *Limited waiver of exclusions and limitations.* Limited waivers of exclusions and limitations normally applicable to the basic program may be granted for specific services or supplies only when a beneficiary's entire treatment has received prior authorization through the ICMP–PEC described in paragraph (i) this section. The Director, TRICARE Management Activity may grant a patient-specific waiver for services or supplies in the following categories, subject to the waiver requirements of this section.

(i) Durable equipment. The cost of a device or apparatus which does not qualify as Durable Medical Equipment (as defined in section 199.2 of this Part) or back-up durable medical equipment may be covered when determined to be cost-effective and clinically appropriate. Such equipment must be required in the assessment or treatment of the beneficiary's medical condition.

(ii) In home services. The cost of the following in-home services may be covered when determined to be cost-effective and clinically appropriate: nursing care, physical, occupational, speech therapy, medical social services, intermittent services of a home health aide, beneficiary transportation required for treatment plan implementation, and training for the beneficiary and primary caregiver sufficient to allow them to assume all feasible responsibility for the care of the beneficiary that will facilitate movement of the beneficiary to the least resource-intensive, clinically appropriate setting. Qualifications for home health aides shall be based on the standards at 42 CFR 848.36. For patients receiving authorized care at home under the ICMP–PEC, there must be a primary caregiver present or the patient must be capable of self-support.

(iii) Domiciliary care. The cost of services or supplies rendered to a beneficiary that would otherwise be excluded as domiciliary care (as defined in section 199.2 of this Part) may be covered only when authorized pursuant to paragraph (i)(3)(ii)(B) and only when provided as an essential component of otherwise medically necessary and appropriate treatment in the management of an extraordinary medical or psychological condition. The domiciliary care must be directly related and essential to the delivery of medically necessary services and no other alternative is available. A domiciliary waiver may be granted only when it will provide medically necessary services on a short-term or transitional basis from a high cost,

normally inpatient setting, to an outpatient setting.

(7) *Right of Appeal.* Beneficiaries and/or providers who dispute either a custodial care determination or the type or level of care and services authorized under the ICMP–PEC have the right to appeal those decisions. Such appeals shall be processed under section 199.10, Appeals, of this Part.

(8) *Secondary liability for payment.* By statute, TRICARE/CHAMPUS is second payer to all health care programs other than Medicaid (Title XIX of the Social Security Act) and certain other Federal or state programs. However, under the ICMP–PEC, TRICARE will pay, as primary obligor, for medically necessary services that might otherwise be covered by other welfare or charity based programs, in addition to Medicaid. TRICARE remains secondary payer under the ICMP–PEC for any comparable services under any other program for which the beneficiary is eligible. When in the best interests of the patient or the patient's family, benefits may be coordinated with Medicaid, other welfare or charity-based programs to ensure TRICARE beneficiaries receive the maximum level of benefits available to them in their communities as long as the primary payer status of ICMP–PEC services is maintained.

(9) *Other administrative requirements.*

(i) Qualified providers of services or items not covered under the basic program, or who are not otherwise eligible for TRICARE/CHAMPUS authorized status, may be authorized for a time-limited period when such authorization is essential to implement the planned treatment under case management. Such providers must not have been excluded or suspended as a CHAMPUS provider, must hold Medicare or, if available, state certification or licensure appropriate to the service, and must agree to participate on all claims related to the case management treatment.

(ii) Unproven treatment or procedures shall not be cost-shared as an exception to standard benefits under this part.

(iii) The Executive Director, OCHAMPUS may establish other procedures for implementation of the case management program under this paragraph (i).

(iv) TRICARE/CHAMPUS case management services may be provided by contractors designated by the Executive Director, OCHAMPUS.

* * * * *

Dated: July 27, 2001.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 01–19185 Filed 7–31–01; 8:45 am]

**BILLING CODE 5001–08–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

**[OPP–301140; FRL–6786–4]**

**RIN 2070–AB78**

## Oxadiazon and Tetradifon; Proposed Revocation of Tolerances

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

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to revoke specific tolerances for residues of the herbicide oxadiazon and the insecticide tetradifon. EPA expects to determine whether any individuals or groups want to support these tolerances. The regulatory actions proposed in this document are part of the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA). By law, EPA is required to reassess 66% of the tolerances in existence on August 2, 1996, by August 2002, or about 6,400 tolerances. The regulatory actions proposed in this document pertain to the proposed revocation of 47 tolerances which would be counted among tolerance/exemption reassessments made toward the August 2002 review deadline of FFDCA section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996.

**DATES:** Comments, identified by docket control number OPP–301140, must be received on or before October 1, 2001.

**ADDRESSES:** Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–301140 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Joseph Nevola, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460; telephone number: (703) 308–8037; e-mail address: nevola.joseph@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

| Categories | NAICS codes | Examples of potentially affected entities |
|---|---|---|
| Industry | 111<br>112<br>311<br><br>32532 | Crop production<br>Animal production<br>Food manufacturing<br>Pesticide manufacturing |

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?*

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301140. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

*C. How and to Whom Do I Submit Comments?*

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–301140 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–301140. Electronic comments may also be filed online at many Federal Depository Libraries.

*D. How Should I Handle CBI that I Want to Submit to the Agency?*

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

*E. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the proposed rule or collection activity.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

*F. What Can I do if I Wish the Agency to Maintain a Tolerance that the Agency Proposes to Revoke?*

This proposed rule provides a comment period of 60 days for any person to state an interest in retaining a tolerance proposed for revocation. If EPA receives a comment within the 60–day period to that effect, EPA will not proceed to revoke the tolerance immediately. However, EPA will take steps to ensure the submission of any needed supporting data and will issue an order in the **Federal Register** under FFDCA section 408(f) if needed. The order would specify data needed and the time frames for its submission, and would require that within 90 days some person or persons notify EPA that they will submit the data. If the data are not submitted as required in the order, EPA will take appropriate action under FFDCA.

EPA issues a final rule after considering comments that are submitted in response to this proposed rule. In addition to submitting comments in response to this proposal, you may also submit an objection at the time of the final rule. If you fail to file an objection to the final rule within the time period specified, you will have waived the right to raise any issues resolved in the final rule. After the specified time, issues resolved in the final rule cannot be raised again in any subsequent proceedings.

## II. Background

*A. What Action is the Agency Taking?*

EPA is proposing to revoke specific tolerances for residues of oxadiazon and tetradifon in or on commodities listed in the regulatory text because these pesticides are not registered under FIFRA for uses on those commodities or because use of the pesticide is otherwise prohibited. The registrations for these pesticide chemicals were canceled because the registrant failed to pay the required maintenance fee or the registrant requested voluntary cancellation or deletion of one or more registered uses of the pesticide. It is EPA's general practice to propose revocation of those tolerances for residues of pesticide active ingredients on crop uses for which there are no active registrations under FIFRA, unless any person in comments on the proposal indicates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

1. *Oxadiazon.* There have been no active registrations for oxadiazon concerning food uses since 1991. In a confirmatory letter to EPA, dated January 24, 2001, the registrant maintained its previous position that it will not support the 16 oxadiazon tolerances; although, it is supporting the continued (noncrop) use of oxadiazon for turf and ornamentals. EPA is

proposing to revoke all the tolerances in 40 CFR 180.346 for the combined residues of the herbicide oxadiazon and its metabolites in or on milk; cattle, fat; cattle, meat; cattle, meat byproducts; goats, fat; goats, meat; goats, meat byproducts; hogs, fat; hogs, meat; hogs, meat byproducts; horses, fat; horses, meat; horses, meat byproducts; sheep, fat; sheep, meat; and sheep, meat byproducts. Therefore, EPA is proposing to remove 40 CFR 180.346 in its entirety.

2. *Tetradifon*. There are no active registrations for tetradifon, which was canceled in 1990 due to non-payment of maintenance fees. EPA is proposing to revoke all the tolerances in 40 CFR 180.174 for residues of the insecticide tetradifon in or on apples; apricots; cherries; citrus citron; crabapples; cucumber; figs; figs, dried; grapefruit; grapes; hops, dried; hops, fresh; lemons; limes; meat; melons; milk; nectarines; oranges; peaches; pears; peppermint; plums (fresh prunes); pumpkins; quinces; spearmint; strawberries; tangerines; tea, dried; tomatoes; and winter squash. Therefore, EPA is proposing to remove 40 CFR 180.174 in its entirety.

*B. What is the Agency's Authority for Taking this Action?*

A ''tolerance'' represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 301 *et seq.*, as amended by the FQPA of 1996, Public Law 104–170, authorizes the establishment of tolerances, exemptions from tolerance requirements, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods 21 U.S.C. 346(a). Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore ''adulterated'' under section 402(a) of the FFDCA. If food containing pesticide residues is considered to be ''adulterated,'' you may not distribute the product in interstate commerce (21 U.S.C. 331(a) and 342(a). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under FIFRA (7 U.S.C. *et seq*). Food-use pesticides not registered in the United States have tolerances for residues of pesticides in or on commodities imported into the United States.

It is EPA's general practice to propose revocation of tolerances for residues of pesticide active ingredients on crop uses for which FIFRA registrations no longer exist and the pesticide can no longer be used. EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States. Nonetheless, EPA will establish and maintain tolerances even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as ''import tolerances,'' are necessary to allow importation into the United States of food containing such pesticide residues. However, where there are no imported commodities that require these import tolerances, the Agency believes it is appropriate to revoke tolerances for unregistered pesticides in order to prevent potential misuse.

Furthermore, as a general matter, the Agency believes that retention of import tolerances not needed to cover any imported food may result in unnecessary restriction on trade of pesticides and foods. Under section 408 of the FFDCA, a tolerance may only be established or maintained if EPA determines that the tolerance is safe based on a number of factors, including an assessment of the aggregate exposure to the pesticide and of the cumulative effects of such pesticide and other substances that have a common mechanism of toxicity. In doing so, EPA must consider potential contributions to such exposure from all tolerances. If the cumulative risk is such that the tolerances in aggregate are not safe, then every one of these tolerances is potentially vulnerable to revocation. Furthermore, if unneeded tolerances are included in the aggregate and cumulative risk assessments, the estimated exposure to the pesticide would be inflated. Consequently, it may be more difficult for others to obtain needed tolerances or to register needed new uses. To avoid these trade-restricting situations, the Agency is proposing to revoke tolerances for residues on crops uses for which FIFRA registrations no longer exist, unless someone expresses a need for such tolerances. Through this proposed rule, the Agency is inviting individuals who need these import tolerances to identify themselves and the tolerances that are needed to cover imported commodities.

Parties interested in retention of the tolerances should be aware that additional data may be needed to support retention. These parties should be aware that, under FFDCA section 408(f), if the Agency determines that additional information is reasonably required to support the continuation of a tolerance, EPA may require that parties interested in maintaining the tolerances provide the necessary information. If the requisite information is not submitted, EPA may issue an order revoking the tolerance at issue.

*C. When do These Actions Become Effective?*

EPA proposes that these actions become effective 90 days following publication of a final rule in the **Federal Register**. EPA is proposing this effective date because EPA believes that by this date all existing stocks of pesticide products labeled for the uses associated with the tolerances proposed for revocation will have been exhausted, giving ample time for any treated fresh produce to clear trade channels. Therefore, EPA believes the effective date proposed in this document is reasonable. However, if EPA is presented with information that existing stocks would still be available for use after the expiration date and that information is verified, EPA will consider extending the expiration date of the tolerance. If you have comments regarding existing stocks and whether the effective date accounts for these stocks, please submit comments as described under **SUPPLEMENTARY INFORMATION.**

Any commodities listed in this proposal treated with the pesticides subject to this proposal, and in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by FQPA. Under this section, any residues of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of FDA that, the residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and the residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

*D. What Is the Contribution to Tolerance Reassessment?*

By law, EPA is required to reassess 66% or about 6,400 of the tolerances in existence on August 2, 1996, by August 2002. EPA is also required to assess the remaining tolerances by August 2006. As of May 21, 2001, EPA has reassessed over 3,630 tolerances. This document proposes to revoke 47 tolerances and/or exemptions. Therefore, 47 tolerance reassessments would be counted when the final rule is published toward the

August 2002 review deadline of FFDCA section 408(q), as amended by FQPA in 1996.

**III. Are The Proposed Actions Consistent with International Obligations?**

The tolerance revocations in this proposal are not discriminatory and are designed to ensure that both domestically-produced and imported foods meet the food safety standards established by the FFDCA. The same food safety standards apply to domestically produced and imported foods.

EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex Maximum Residue Limits (MRLs) in setting U.S. tolerances and in reassessing them. MRLs are established by the Codex Committee on Pesticide Residues, a committee within the Codex Alimentarius Commission, an international organization formed to promote the coordination of international food standards. It is EPA's policy to harmonize U.S. tolerances with Codex MRLs to the extent possible, provided that the MRLs achieve the level of protection required under FFDCA. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual Reregistration Eligibility Decision documents. The U.S. EPA has developed guidance concerning submissions for import tolerance support (65 FR 35069, June 1, 2000) (FRL–6559–3). This guidance will be made available to interested persons. Electronic copies are available on the internet at http://www.epa.gov/. On the Home Page select ''Laws and Regulations,'' then select ''Regulations and Proposed Rules'' and then look up the entry for this document under ''**Federal Register**—Environmental Documents.'' You can also go directly to the ''**Federal Register**'' listings at http://www.epa.gov/fedrgstr/.

**IV. Regulatory Assessment Requirements**

In this proposed rule, EPA is proposing to revoke specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted this type of action; i.e., a tolerance revocation for which extraordinary circumstances do not exist, from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether revocations of tolerances might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. This analysis was published on December 17, 1997 (62 FR 66020), and was provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this rule, I certify that this action will not have a significant economic impact on a substantial number of small entities. Specifically, as per the 1997 notice, EPA has reviewed its available data on imports and foreign pesticide usage and concludes that there is a reasonable international supply of food not treated with canceled pesticides. Furthermore, for the pesticides named in this proposed rule, the Agency knows of no extraordinary circumstances that exist as to the present proposed revocations that would change EPA's previous analysis. Any comments about the Agency's determination should be submitted to EPA along with comments on the proposal, and will be addressed prior to issuing a final rule.

In addition, the Agency has determined that this action will not have a substantial direct effect on 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, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' This proposed rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175 requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 18, 2001.

**Marcia E. Mulkey,**

*Director, Office of Pesticide Programs.*

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

## PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346(a) and 371.

**§180.174 [Removed]**

2. Section 180.174 is removed.

**§180.346 [Removed]**

3. Section 180.346 is removed.

[FR Doc. 01–19166 Filed 7–31–01; 8:45 am]

**BILLING CODE 6560–50–S**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–301137; FRL–6787–3]**

**RIN 2070–AB78**

## Atrazine, Bensulide, Carbofuran, Diphenamid, Fumaric acid, Imazalil, 6-Methyl-1,3-dithiolo[4,5-b]quinoxalin-2-one, Phosphamidon, S-Propyl dipropylthiocarbamate, and Trimethacarb; Proposed Revocation of Tolerances

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

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to revoke specific tolerances for residues of the insecticides carbofuran, phosphamidon, and trimethacarb; the herbicides atrazine, *S*-(*O,O*-diisopropyl phosphorodithioate) ester of *N*-(2-mercaptoethyl)benzenesulfonamide, known as bensulide, *S*-propyl dipropylthiocarbamate, known as vernolate, and diphenamid; the fungicides fumaric acid and imazalil; and the fungicide/insecticide 6-methyl-1,3-dithiolo[4,5-b]quinoxalin-2-one (oxythioquinox). EPA expects to determine whether any individuals or groups want to support these tolerances. The regulatory actions proposed in this document are part of the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA). By law, EPA is required to reassess 66% of the tolerances in existence on August 2, 1996, by August 2002, or about 6,400 tolerances. The regulatory actions proposed in this document pertain to the proposed revocation of 81 tolerances and/or exemptions, but since one exemption for fumaric acid was previously reassessed, 80 would be counted among tolerance/exemption reassessments made toward the August, 2002 review deadline of FFDCA section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996.

**DATES:** Comments, identified by docket control number OPP–301137, must be received on or before October 1, 2001.

**ADDRESSES:** Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–301137 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Joseph Nevola, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460; telephone number: (703) 308-8037; e-mail address: nevola.joseph@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

| Categories | NAICS | Examples of Potentially Affected Entities |
|---|---|---|
| Industry | 111 | Crop production |
| | 112 | Animal production |
| | 311 | Food manufacturing |
| | 32532 | Pesticide manufacturing |

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

*B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?*

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301137. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall#2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

*C. How and to Whom Do I Submit Comments?*

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–301137 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records

Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–301137. Electronic comments may also be filed online at many Federal Depository Libraries.

*D. How Should I Handle CBI that I Want to Submit to the Agency?*

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*E. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the proposed rule or collection activity.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

*F. What Can I do if I Wish the Agency to Maintain a Tolerance that the Agency Proposes to Revoke?*

This proposed rule provides a comment period of 60 days for any person to state an interest in retaining a tolerance proposed for revocation. If EPA receives a comment within the 60–day period to that effect, EPA will not proceed to revoke the tolerance immediately. However, EPA will take steps to ensure the submission of any needed supporting data and will issue an order in the **Federal Register** under FFDCA section 408(f) if needed. The order would specify data needed and the time frames for its submission, and would require that within 90 days some person or persons notify EPA that they will submit the data. If the data are not submitted as required in the order, EPA will take appropriate action under FIFRA or FFDCA.

EPA issues a final rule after considering comments that are submitted in response to this proposed rule. In addition to submitting comments in response to this proposal, you may also submit an objection at the time of the final rule. If you fail to file an objection to the final rule within the time period specified, you will have waived the right to raise any issues resolved in the final rule. After the specified time, issues resolved in the final rule cannot be raised again in any subsequent proceedings.

## II. Background

*A. What Action is the Agency Taking?*

EPA is proposing to revoke specific tolerances and/or exemptions for residues of the insecticides carbofuran, phosphamidon, and trimethacarb; the herbicides atrazine, bensulide, diphenamid, and vernolate; the fungicides fumaric acid and imazalil; and the fungicide/insecticide oxythioquinox in or on commodities listed in the regulatory text because these pesticides are not registered under FIFRA for uses on those commodities or because use of the pesticide is otherwise prohibited. The registrations for these pesticide chemicals, except for carbofuran, were canceled because the registrant failed to pay the required maintenance fee or the registrant voluntarily canceled one or more registered uses of the pesticide. It is EPA's general practice to propose revocation of those tolerances for residues of pesticide active ingredients on crop uses for which there are no active registrations under FIFRA, unless any person in comments on the proposal indicates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

1. *Atrazine.* The Agency is proposing to revoke and remove the tolerances in 40 CFR 180.220(a)(2) for use of atrazine and its metabolites on grass, range; orchardgrass; and orchardgrass, hay because atrazine is no longer registered for these uses. EPA had proposed these tolerance revocations previously on February 5, 1998 in the **Federal Register** (63 FR 5907) (FRL–5743–9). However, in response to a comment from the Washington State Department of Agriculture that active registrations for atrazine use on grass existed, EPA did not revoke the tolerances in 40 CFR 180.220(a)(2) for use of atrazine on grass, range; orchardgrass; and orchardgrass, hay; as published in the **Federal Register** (63 FR 57067, October 26, 1998) (FRL–6035–6). However, subsequent communications from Drexel Chemical Company and Novartis Crop Protection, Inc. (now called Syngenta Crop Protection, Inc.) confirmed that no active registrations exist and that the tolerances should be revoked. Also, in 40 CFR 180.220, EPA is proposing to remove the ''(N)'' designation from all remaining entries to conform to current Agency administrative practice (''N'' designation means negligible residues).

2. *Bensulide.* EPA is proposing to revoke the tolerance for residues of the herbicide *S*-(*O,O*-Diisopropyl phosphorodithioate) ester of *N*-(2-mercaptoethyl) benzenesulfonamide, known as bensulide, and its oxygen analog in or on cottonseed by revising 40 CFR 180.241 because bensulide is not registered under FIFRA for use on cotton. On September 30, 1994, a 6(f)(1)

notice of receipt of the voluntary use deletion request by the registrant was published in the **Federal Register** (59 FR 34065) (FRL–4912–1). EPA believes that existing stocks have been used and treated commodity has passed through the channels of trade.

3. *Carbofuran*. EPA is proposing to revise tolerances for residues of the insecticide carbofuran and its metabolites in or on rice and rice, straw in 40 CFR 180.254 by adding an expiration/revocation date of August 31, 2002 to allow treated commodities to pass through the channels of trade.

In 1991, EPA and FMC Corporation, the registrant of carbofuran, reached a settlement agreement to phase out the use of granular carbofuran (trade name Furadan) on rice by 1994 because of its acute toxicity to birds. However, due to the unavailability of effective substitutes in 1994 and subsequent years, and in order to allow a reasonable transition period, that phase out was extended until August, 1998 for most states. In 1999, EPA notified FMC Corporation that the Agency would not authorize any further production of granular carbofuran for rice in the 1999 season and beyond. Existing 24(c) registrations and labels concerning Arkansas, California, Louisiana, Missouri, Mississippi, and Texas were to prohibit distribution, sale, and use of existing stocks of granular carbofuran on rice after August 31, 1999. However, due to unique transition issues in California, rice growers in California were permitted to use existing stocks of carbofuran on rice until August, 2000. Based on discussions with the California Rice Commission, EPA believes that rice commodities in California treated with carbofuran until August, 2000 will have passed through the channels of trade by August, 2002. There are now two registered alternatives and EPA has not granted further extensions to the phase out of granular carbofuran for use on rice. Therefore, after the effective date of the final rule adopting these changes and once the expiration/revocation date of these tolerances has been reached, these tolerances will no longer be effective.

4. *Diphenamid*. Diphenamid has not had active registrations under FIFRA since 1991. EPA believes that existing stocks have been used and treated commodities have passed through the channels of trade. EPA is proposing to revoke the tolerances in 40 CFR 180.230 for residues of the herbicide diphenamid and its metabolite in or on apples; cattle, fat; cattle, mbyp; cattle, meat; cotton forage; cottonseed; fruiting vegetables; goats, fat; goats, mbyp; goats, meat; hogs, fat; hogs, mbyp; hogs, meat; horses, fat; horses, mbyp; horses, meat; milk; okra; peaches; peanut forage; peanut hay; peanuts; potatoes; sheep, fat; sheep, mbyp; sheep, meat; raspberries; soybean forage; soybean hay; soybeans; strawberries; and sweet potatoes. Therefore, the Agency is proposing to remove §180.230 in its entirety.

5. *Fumaric acid*. Fumaric acid has not had active registrations under FIFRA since 1989. EPA believes that existing stocks have been used and treated commodities have passed through the channels of trade. EPA is proposing to revoke the exemptions in 40 CFR 180.2(a) for residues of the fungicide fumaric acid on raw agricultural commodities and on animal products and in §180.1001(d) for residues of fumaric acid-isophthalic acid-styrene-ethylene/propylene glycol copolymer (minimum average molecular weight (in amu) $1 \times 10^{18}$) on raw agricultural commodities because active registrations do not exist.

6. *Imazalil*. EPA is proposing to revoke and remove the tolerance in 40 CFR 180.413(a)(1) for the combined residues of the fungicide imazalil and its metabolite in or on cottonseed because imazalil is not registered under FIFRA for use on cotton.

7. *6-Methyl-1,3-dithiolo[4,5-b]quinoxalin-2-one*. Because 6-Methyl-1,3-dithiolo[4,5-b]quinoxalin-2-one has no registered uses under FIFRA, EPA is proposing to revise the tolerances in 40 CFR 180.338 for residues of the fungicide/insecticide 6-Methyl-1,3-dithiolo[4,5-b]quinoxalin-2-one in or on apples; apricots; cattle, fat; cattle, mbyp; cattle, meat; citrus fruits; goats, fat; goats, mbyp; goats, meat; hogs, fat; hogs, mbyp; hogs, meat; horses, fat; horses, mbyp; horses, meat; macadamia nuts; milk; pears; sheep, fat; sheep, mbyp; sheep, meat; and walnuts. In the **Federal Register** of March 17, 1999, EPA announced receipt of a request for voluntary cancellation of oxythioquinox, 6-Methyl-1,3-dithiolo[4,5-b]quinoxalin-2-one or chinomethionate (64 FR 13191) (FRL–6067–8). The Agency permitted distribution and sale for 18 months after the effective date of cancellation on October 27, 1999 and end users were permitted an additional year for use of existing stocks.

Therefore, EPA is proposing to revise §180.338 in its entirety to add an expiration/revocation date of August 1, 2002, to allow any treated commodities to pass through the channels of trade. After the effective date of the final rule adopting these changes and once the expiration/revocation date of these tolerances has been reached, these tolerances will no longer be effective. Also, in 40 CFR 180.338, EPA is proposing to remove the ''(N)'' designation from all entries to conform to current Agency administrative practice (''N'' designation means negligible residues). In addition, because the tolerances with a revocation date will continue to appear in future issues of Title 40, commodity terminology changes are proposed to change ''apples'' to ''apple,'' ''apricots'' to ''apricot,'' ''cattle, mbyp'' to ''cattle, meat byproducts,'' ''citrus fruits'' to ''fruit, citrus,'' ''goats, fat'' to ''goat, fat,'' ''goats, mbyp'' to ''goat, meat byproducts,'' ''goats, meat'' to ''goat, meat,'' ''hogs, fat'' to ''hog, fat,'' ''hogs, mbyp'' to ''hog, meat byproducts,'' ''hogs, meat'' to ''hog, meat,'' ''horses, fat'' to ''horse, fat,'' ''horses, mbyp'' to ''horse, meat byproducts,'' ''horses, meat'' to ''horse, meat,'' ''macadamia nuts'' to ''nut, macadamia,'' ''pears'' to ''pear'' ''sheep, mbyp'' to ''sheep, meat byproducts,'' and ''walnuts'' to ''walnut'' in order to conform to current Agency administrative practice.

8. *Phosphamidon*. EPA is proposing to revise the tolerance in 40 CFR 180.239 for residues of the insecticide phosphamidon including all of its related cholinesterase-inhibiting compounds in or on apples with an expiration/revocation date of December 31, 2002, to allow any treated commodities to pass through the channels of trade.

EPA proposed to remove the tolerances for phosphamidon on January 21, 1998 (63 FR 3057) (FRL–5743–8). Comments were received from the Washington State Department of Agriculture and Northwest Wholesale, Inc. which requested that EPA not revoke the tolerance for phosphamidon on apples due to concerns about existing stocks. The Agency did not revoke the tolerance for phosphamidon on apples at that time (63 FR 57062, October 26, 1998) (FRL–6035–8). Subsequently, the Agency was informed by the Washington State Department of Agriculture that based on review of the pests controlled by phosphamidon, efficacy of registered alternatives, estimates of remaining stocks of phosphamidon, and use/disposal of remaining unused stocks, retention of the tolerance for phosphamidon on apples until December 31, 2002 would allow growers to use up existing stocks and would be adequate.

Therefore, EPA is proposing to revise the tolerance in 40 CFR 180.239 for residues of phosphamidon including all of its related cholinesterase-inhibiting compounds in or on apples by adding an expiration/revocation date of

December 31, 2002. Because the tolerance with its revocation date will continue to appear in future issues of Title 40, EPA is also proposing to revise the commodity name from ''apples'' to ''apple'' in order to conform to current Agency administrative practice. After the effective date of the final rule adopting these changes and once the expiration/revocation date of these tolerances has been reached, these tolerances will no longer be effective.

9.*S-Propyl dipropylthiocarbamate (vernolate).* Because there are no registered uses for S-Propyl dipropylthiocarbamate (vernolate), EPA is proposing to revise the tolerances in 40 CFR 180.240 by adding an expiration/revocation date of May 1, 2002 for *S*-Propyl dipropylthiocarbamate (vernolate) residues in or on corn, fodder; corn, forage; corn, fresh (inc. sweet)(K+CWHR); corn, grain; peanuts; peanut, forage; peanut, hay; potatoes; soybeans; soybean, forage; soybean, hay; and sweet potatoes. In the March 3, 1999 **Federal Register** notice of receipt of the request for voluntary cancellation of *S*-Propyl dipropylthiocarbamate (vernolate), EPA agreed that registrants were permitted to sell and distribute existing stocks of vernolate until February 1, 2000, that distributors were permitted to sell and distribute existing stocks of vernolate until February 1, 2001, and that end users are permitted to use existing stocks until February 1, 2002 (64 FR 10296, March 3, 1999)(FRL–6061–9).

Because the tolerances with a revocation date will continue to appear in future issues of Title 40, commodity terminology changes are proposed to conform with current Agency administrative practice as follows: ''corn, fresh (inc. sweet)(K+CWHR)'' to ''corn, sweet, kernel plus cob with husks removed,'' ''peanuts'' to ''peanut,'' ''potatoes'' to ''potato,'' ''soybeans'' to ''soybean,'' and ''sweet potatoes'' to ''sweet potato.'' No other commodity name changes are proposed because current Agency practice is to split certain names into two names (e.g. ''corn, grain'' to ''corn, field, grain'' and ''corn, pop, grain'') and while it would not establish any new tolerances, such a change here could incorrectly be viewed as doing so. Therefore, such name changes are not proposed in order to avoid possible confusion. After the effective date of the final rule adopting these changes and once the expiration/revocation date of these tolerances has been reached, these tolerances will no longer be effective.

10. *Trimethacarb.* EPA is proposing to revoke the tolerances for residues of the insecticide 3,4,5-Trimethylphenyl methylcarbamate and 2,3,5-Trimethylphenyl methylcarbamate, known as trimethacarb, in or on corn, field, grain; corn, fodder; corn, forage; and corn, pop, grain in 40 CFR 180.305 because trimethacarb is not registered under FIFRA for use on corn. Therefore, the Agency is proposing to remove §180.305 in its entirety.

EPA proposed to revoke the tolerances for trimethacarb on January 21, 1998 (63 FR 3057). A comment on the proposed rule was received from Drexel Chemical Company which requested that EPA not revoke the tolerances for trimethacarb until Drexel determined the state of existing stocks. As a result of that comment, the Agency did not take action on trimethacarb at that time (63 FR 57062, October 26, 1998). Subsequently, the Agency was informed by Drexel that end-users would exhaust existing stocks of trimethacarb by mid-May, 1999. Therefore, the Agency is proposing to revoke §180.305 in its entirety.

*B. What is the Agency's Authority for Taking this Action?*

A ''tolerance'' represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 301 et seq., as amended by the FQPA of 1996, Public Law 104–170, authorizes the establishment of tolerances, exemptions from tolerance requirements, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. 21 U.S.C. 346(a). Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore ''adulterated'' under section 402(a) of the FFDCA. If food containing pesticide residues is considered to be ''adulterated,'' it may not be distributed in interstate commerce (21 U.S.C. 331(a) and 342(a). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under FIFRA (7 U.S.C. et seq.) Food-use pesticides not registered in the United States have tolerances for residues of pesticides in or on commodities imported into the United States.

It is EPA's general practice to propose revocation of tolerances for residues of pesticide active ingredients on crop uses for which FIFRA registrations no longer exist and the pesticide can no longer be used. EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States. Nonetheless, EPA will establish and maintain tolerances even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as ''import tolerances,'' are necessary to allow importation into the United States of food containing such pesticide residues. However, where there are no imported commodities that require these import tolerances, the Agency believes it is appropriate to revoke tolerances for unregistered pesticides in order to prevent potential misuse.

Furthermore, as a general matter, the Agency believes that retention of import tolerances not needed to cover any imported food may result in unnecessary restriction on trade of pesticides and foods. Under section 408 of the FFDCA, a tolerance may only be established or maintained if EPA determines that the tolerance is safe based on a number of factors, including an assessment of the aggregate exposure to the pesticide and of the cumulative effects of such pesticide and other substances that have a common mechanism of toxicity. In doing so, EPA must consider potential contributions to such exposure from all tolerances. If the cumulative risk is such that the tolerances in aggregate are not safe, then every one of these tolerances is potentially vulnerable to revocation. Furthermore, if unneeded tolerances are included in the aggregate and cumulative risk assessments, the estimated exposure to the pesticide would be inflated. Consequently, it may be more difficult for others to obtain needed tolerances or to register needed new uses. To avoid these trade-restricting situations, the Agency is proposing to revoke tolerances for uses for which FIFRA registrations no longer exist, unless someone expresses a need for such tolerances. Through this proposed rule, the Agency is inviting individuals who need these import tolerances to identify themselves and the tolerances that are needed to cover imported commodities.

Parties interested in retention of the tolerances should be aware that additional data may be needed to support retention. These parties should be aware that, under FFDCA section 408(f), if the Agency determines that additional information is reasonably required to support the continuation of a tolerance, EPA may require that parties interested in maintaining the tolerances provide the necessary information. If the requisite information

is not submitted, EPA may issue an order revoking the tolerance at issue.

*C. When do These Actions Become Effective?*

EPA proposes that these actions become effective 90 days following publication of a final rule in the **Federal Register**. In most cases the tolerances proposed to be revoked will expire on the effective date of the final rule, with the exception of the tolerances for carbofuran on rice and rice, straw, which are proposed to expire on August 31, 2002, the 22 tolerances for 6-methyl-1,3-dithiolo[4,5-b]quinoxalin-2-one (oxythioquinox or chinomethionate), which will expire on August 1, 2002, the tolerance for phosphamidon on apples, which is proposed to expire on December 31, 2002, and the 12 tolerances for *S*-Propyl dipropylthiocarbamate (vernolate), which are proposed to expire on May 1, 2002. EPA is proposing these revocation/expiration dates because EPA believes that by these dates all existing stocks of pesticide products labeled for the uses associated with the tolerances proposed for revocation will have been exhausted, giving ample time for any treated fresh produce to clear trade channels. Therefore, EPA believes the revocation/expiration dates proposed in this document are reasonable. However, if EPA is presented with information that existing stocks would still be available for use after the expiration date and that information is verified, EPA will consider extending the expiration date of the tolerance. If you have comments regarding existing stocks and whether the effective date accounts for these stocks, please submit comments as described under **SUPPLEMENTARY INFORMATION.**

Any commodities listed in this proposal treated with the pesticides subject to this proposal, and in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by FQPA. Under this section, any residues of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of FDA that, (1) the residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and (2) the residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

*D. What Is the Contribution to Tolerance Reassessment?*

By law, EPA is required to reassess 66% or about 6,400 of the tolerances in existence on August 2, 1996, by August 2002. EPA is also required to assess the remaining tolerances by August, 2006. As of May 31, 2001, EPA has reassessed over 3,630 tolerances. This document proposes to revoke 81 tolerances and/or exemptions. However, since one has been previously reassessed, 80 tolerance/exemption reassessments would be counted toward the August, 2002 review deadline of FFDCA section 408(q), as amended by FQPA in 1996.

## III. Are The Proposed Actions Consistent with International Obligations?

The tolerance revocations in this proposal are not discriminatory and are designed to ensure that both domestically-produced and imported foods meet the food safety standards established by the FFDCA. The same food safety standards apply to domestically produced and imported foods.

EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex Maximum Residue Limits (MRLs) in setting U.S. tolerances and in reassessing them. MRLs are established by the Codex Committee on Pesticide Residues, a committee within the Codex Alimentarius Commission, an international organization formed to promote the coordination of international food standards. It is EPA's policy to harmonize U.S. tolerances with Codex MRLs to the extent possible, provided that the MRLs achieve the level of protection required under FFDCA. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual Reregistration Eligibility Decision documents. The U.S. EPA has developed guidance concerning submissions for import tolerance support (65 FR 35069, June 1, 2000) (FRL–6559–3). This guidance will be made available to interested persons. Electronic copies are available on the internet at http://www.epa.gov/. On the Home Page select ''Laws and Regulations,'' then select ''Regulations and Proposed Rules'' and then look up the entry for this document under ''**Federal Register**—Environmental Documents.'' You can also go directly to the ''**Federal Register**'' listings at http://www.epa.gov/fedrgstr/.

## IV. Regulatory Assessment Requirements

In this proposed rule, EPA is proposing to revoke specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted this type of action; i.e., a tolerance revocation for which extraordinary circumstances do not exist, from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether revocations of tolerances might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. This analysis was published on December 17, 1997 (62 FR 66020), and was provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this rule, I certify that this action will not have a significant economic impact on a substantial number of small entities. Specifically, as per the 1997 notice, EPA has reviewed its available data on imports and foreign pesticide usage and concludes that there is a reasonable international supply of food not treated with canceled pesticides. Furthermore, for the pesticides named in this proposed rule, the Agency knows of no extraordinary circumstances that exist as to the

present proposed revocations that would change EPA's previous analysis. Any comments about the Agency's determination should be submitted to EPA along with comments on the proposal, and will be addressed prior to issuing a final rule.

In addition, the Agency has determined that this action will not have a substantial direct effect on 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, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' This proposed rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175 requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 18, 2001.

**Marcia E. Mulkey,**

*Director, Office of Pesticide Programs.*

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

## PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346(a) and 371.

**§180.2 [Amended]**

2. Section 180.2 is amended by removing the term ''fumaric acid,'' in paragraph (a).

**§180.220 [Amended]**

3. Section 180.220 is amended by redesignating paragraph (a)(1) as paragraph (a); removing the ''(N)'' designation wherever it appears in the ''Parts per million'' column in the table under newly designated paragraph (a); and by removing paragraph (a)(2).

**§180.230 [Removed]**

4. Section 180.230 is removed.

5. Section 180.239 is revised to read as follows:

**§ 180.239 Phosphamidon; tolerances for residues.**

(a) *General.* Tolerances (expressed as phosphamidon) for residues of the insecticide phosphamidon (2-chloro-2-diethylcarbamoyl-1-methylvinyl dimethyl phosphate) including all of its related cholinesterase-inhibiting compounds in or on raw agricultural commodities are established as follows:

| Commodity | Parts per million | Expiration/Revocation Date |
|---|---|---|
| Apple | 1.0 | 12/31/02 |

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

6. Section 180.240 is revised to read as follows:

**§ 180.240 Vernolate; tolerances for residues.**

(a) *General.* Tolerances are established for the herbicide vernolate; *S*-Propyl dipropylthiocarbamate in or on the following raw agricultural commodities:

| Commodity | Parts per million | Expiration/Revocation Date |
|---|---|---|
| Corn, fodder | 0.1 | 5/1/02 |
| Corn, forage | 0.1 | 5/1/02 |
| Corn, grain | 0.1 | 5/1/02 |
| Corn, sweet, kernel plus cob with husks removed | 0.1 | 5/1/02 |
| Peanut | 0.1 | 5/1/02 |
| Peanut, forage | 0.1 | 5/1/02 |
| Peanut, hay | 0.1 | 5/1/02 |
| Potato | 0.1 | 5/1/02 |
| Soybean | 0.1 | 5/1/02 |
| Soybean, forage | 0.1 | 5/1/02 |
| Soybean, hay | 0.1 | 5/1/02 |

| Commodity | Parts per million | Expiration/Revocation Date |
|---|---|---|
| Sweet potato | 0.1 | 5/1/02 |

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

**§180.241 [Amended]**

7. Section 180.241 is amended by removing the word ''cottonseed,''.

8. In §180.254, paragraph (a) is amended by adding a third column titled ''Expiration/Revocation Date.'' to the table, by adding the word ''None'' in the new third column for all entries except ''Rice'' and ''Rice straw.'' and by revising the entries for ''Rice'' and ''Rice straw'' to read as follows:

**§180.254 Carbofuran; tolerances for residues.**

(a) *General.* * * *

| Commodity | Parts per million | Expiration/Revocation Date |
|---|---|---|
| * * * * * | | |
| Rice | 0.2 | 8/31/02 |
| Rice, straw (of which no more than 0.2 ppm is carbamates) | 1.0 | 8/31/02 |
| * * * * * | | |

* * * * *

**§180.305 [Removed]**

9. Section 180.305 is removed.

10. Section 180.338 is revised to read as follows:

**§180.338 6-Methyl-1,3-dithiolo[4,5-b]quinoxalin-2-one; tolerances for residues.**

(a) *General.* Tolerances are established for residues of the fungicide and insecticide 6-methyl-1,3-dithiolo[4,5-b]quinoxalin-2-one in or on raw agricultural commodities as follows:

| Commodity | Parts per million | Expiration/Revocation Date |
|---|---|---|
| Apple | 0.05 | 8/1/02 |
| Apricot | 0.02 | 8/1/02 |
| Cattle, fat | 0.05 | 8/1/02 |
| Cattle, meat | 0.05 | 8/1/02 |
| Cattle, meat byproducts | 0.05 | 8/1/02 |
| Fruit, citrus | 0.5 | 8/1/02 |
| Goat, fat | 0.05 | 8/1/02 |
| Goat, meat | 0.05 | 8/1/02 |
| Goat, meat byproducts | 0.05 | 8/1/02 |
| Hog, fat | 0.05 | 8/1/02 |
| Hog, meat | 0.05 | 8/1/02 |
| Hog, meat byproducts | 0.05 | 8/1/02 |
| Horse, fat | 0.05 | 8/1/02 |
| Horse, meat | 0.05 | 8/1/02 |
| Horse, meat byproducts | 0.05 | 8/1/02 |
| Milk | 0.01 | 8/1/02 |
| Nut, macadamia | 0.1 | 8/1/02 |
| Pear | 0.05 | 8/1/02 |
| Sheep, fat | 0.05 | 8/1/02 |
| Sheep, meat | 0.05 | 8/1/02 |
| Sheep, meat byproducts | 0.05 | 8/1/02 |
| Walnut | 0.1 | 8/1/02 |

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

**§180.413 [Amended]**

11. Section 180.413 is amended by removing the entry for ''cottonseed'' from the table in paragraph (a)(1).

**§180.1001 [Amended]**

12. Section 180.1001 is amended by removing the entry for ''fumaric acid-isophthalic acid-styrene-ethylene/propylene glycol copolymer (minimum average molecular weight (in amu) 1 x $10^{18}$)'' from the table in paragraph (d).

[FR Doc. 01–19176 Filed 7–31–01; 8:45 am]

BILLING CODE 6560–50–S

## FEDERAL EMERGENCY MANAGEMENT AGENCY

## 44 CFR Part 204

**RIN 3067–AD24**

## Disaster Assistance; Fire Management Assistance Grant Program

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would implement section 420 of the Stafford Act as amended by the Disaster Mitigation Act of 2000 and would provide overall program guidance on the operation and administration of the Fire Management Assistance Grant Program.

**DATES:** We invite comments on this proposed rule and will accept comments until September 17, 2001.

**ADDRESSES:** Please send written comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (facsimile) 202–646–4536, or (email) *rules@fema.gov.*

**FOR FURTHER INFORMATION CONTACT:** Curtis Carleton, Chief, Community Services Branch, Federal Emergency Management Agency, 500 C Street SW., room 713, Washington, DC 20472, 202–646–4535; (facsimile) 202–646–3147; or (e-mail) *Curtis.Carleton@fema.gov.*

**SUPPLEMENTARY INFORMATION:** Section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5187, as amended by section 303 of the Disaster Mitigation Act of 2000, establishes the Fire Management Assistance Grant Program, which expands the scope and level of assistance currently available under the Fire Suppression Assistance Program. Instead of limiting Federal assistance to the ''suppression'' of forest or grassland fires that threaten such destruction as would constitute a major disaster, section 420, as amended, expands the range of eligible activities to include the ''mitigation, management, and control'' of such fires.

Part of the difficulty in administering the Fire Suppression Assistance Program over the past several years has been the changing nature and increased frequency of wildfires. From 1970–1995, we (FEMA) averaged about 5–7 State requests per year. However, since 1996, we have averaged approximately 40 requests per year. We attribute this increase in State requests to a higher occurrence of fires burning in the wildland/urban interface, the area where potentially highly flammable wildland vegetation meets high value structures, primarily residences.

In addition to the dramatic increase in requests, expenditures for the Fire Suppression Assistance Program have also increased. From June 1970–December 1996 Federal expenditures totaled $103,043,218; yet in 1998 alone expenditures under the program totaled $105,803,191. In one year, the Fire Suppression Assistance Program exceeded the programmatic costs accumulated over its previous 27 years of existence. We expect this trend of more frequent and costly fires to continue well into the next decade as the boundaries between wildlands and urban population centers continue to diminish, creating a volatile wildland/urban interface. Federal expenditures for the 2000 fire season have already exceeded $50 million and we expect this number to increase as States submit additional costs to FEMA for review.[1]

Despite the relatively high level of funding provided to States under approved fire suppression assistance grants, the program has struggled to meet the needs of States that have exceeded their capability in battling fires in the wildland/urban in recent years. To compensate for deficiencies in the current program, the President has approved several State requests for major disaster and emergency declarations. Since 1996, Federal expenditures for major disaster and emergency declarations provided in conjunction with fire suppression assistance grants have totaled $62,433,467.

The Disaster Mitigation Act of 2000 amendments to § 420 will allow us to provide States with a higher, more organized level of Federal assistance under the Fire Management Assistance Grant Program than is currently available under the Fire Suppression Assistance Program. In Senate Report 106–295 dated May 16, 2000, which accompanied Senate Bill 1691, members of Congress acknowledged the deficiencies of the current program and commented that the amendments ''* * * would allow for payment of the extraordinary cost incurred by local governments in complex, multi-location wildfire situations (e.g., Texas and Oklahoma in 1996, and Florida in 1998), and may preclude the need to issue a major disaster or emergency in these situations.''

For instance, to minimize the need for major disaster and emergency declarations to be provided in conjunction with fire management assistance grants, section 420, as amended, includes explicit authority to fund activities allowable under section 403 (42 U.S.C. 5170b)—Essential Assistance—of the Stafford Act. Section 403 authorizes assistance for activities required to meet threats to life and property. To allow payment for the extraordinary costs incurred by local governments performing eligible firefighting activities, section 420 now authorizes the provision of assistance, including grants, equipment, supplies, and personnel both to State and local governments, whereas under the Fire Suppression Assistance Program assistance was limited to States. To ensure the effective administration and operation of the new Fire Management Assistance Grant Program, section 420, as amended, requires us to coordinate with State and tribal departments of forestry, in addition to the more traditional emergency management agencies that we coordinate with on the administration and operation of other Stafford Act disaster assistance programs.

Our proposed regulations for the new Fire Management Assistance Grant Program reflect the changes mandated by the Disaster Mitigation Act of 2000. These proposed regulations also include other initiatives designed to streamline the Fire Management Assistance Grant Program and make it more consistent with the administration, eligibility, and funding of the other Stafford Act disaster assistance programs.

The Fire Management Assistance Grant Program becomes effective on October 30, 2001, one year from enactment of the Disaster Mitigation Act of 2000.

## Disaster Mitigation Act of 2000 Amendments

### *Mitigation, Management and Control*

In order to gather a full spectrum of ideas for the design of the Fire Management Assistance Grant Program, we convened a meeting of foresters and program managers representing eight States, Native American Tribes, the Forest Service, and four FEMA Regional Offices in January 2001. During the meeting, we discussed the practical interpretation and application of ''mitigation, management, and control.'' Based on those discussions, we are interpreting ''mitigation, management, and control'' as a flexible and broad-based provision intended to reduce the spread of a fire, reduce associated health and safety threats, prevent potential damages by the fire, and repair damage caused by the firefighting activities. In application, activities that may be eligible for funding under the new program include section 403 activities that are associated with the firefighting operation such as evacuations and sheltering, search and rescue, and public information, as well as other activities associated with the ''mitigation, management, and control'' of declared fires, which may include the

[1] Under the Fire Suppression Assistance Program it normally takes States between 12 and 18 months to gather and submit all eligible costs to FEMA for review.

repair of damage caused by eligible firefighting activities and the pre-positioning of resources.

State and local governments, however, should be aware that ''mitigation, management, and control'' under this authority, applies only to a fire or fire complex that has been declared under the Fire Management Assistance Grant Program. Therefore, activities designed to reduce the potential for future fires, or to minimize future soil loss, for example, are outside of the scope of mitigation, management, and control, and would be ineligible for funding under the Fire Management Assistance Grant Program.

*Local Governments*

Under section 420, as amended, we may provide funding to local firefighting organizations more readily than under the current program. Under the current program, States are the sole applicants eligible for assistance; local firefighting organizations may only be reimbursed if they are signatories to a mutual aid agreement with the State. This new provision would eliminate confusion over what are acceptable mutual aid agreements, and would provide a more equitable program with respect to local governments. In the Fire Management Assistance Grant Program, local governments would be considered subgrantees, with the State serving as Grantee, and may be reimbursed for eligible costs incurred without having entered into a pre-existing mutual aid agreement with the State.

*Coordination With State and Tribal Foresters*

We have worked closely with State foresters in recent years as we have considered changes to the Fire Suppression Assistance Program. We have also worked closely with State foresters on many operational issues. We have had very little opportunity to work with tribal foresters; assistance for firefighting activities on tribal lands is available from other federal sources. We intend to seek out ways to coordinate program issues with tribal foresters, as well as with State foresters. We reflect this intent in our introduction to the proposed regulations.

**Streamlining Proposals**

We propose to incorporate measures into the Fire Management Assistance Grant Program that are similar to those in the Fire Suppression Assistance Program to ensure that Federal assistance remains supplemental to State and local capabilities. These measures include the establishment of the following: (1) Criteria that would be used to determine when to approve a State's request for a declaration under the Fire Management Assistance Program, including a requirement for States to develop an Operations Plan that identifies, among other things, indicators of when the State needs Federal supplemental assistance; (2) a fire cost threshold that must be met on all fire management assistance grants, and (3) a 25 percent non-Federal cost-share for fire management assistance grants.

*Criteria*

We propose criteria that we would evaluate to determine whether a fire threatens such destruction as would constitute a major disaster. These criteria would indicate the conditions and resources specific to the current fire situation for which the State is requesting a declaration. We would consider these criteria in the context of the State's Operations Plan, which we would require each State to develop and maintain for the Fire Management Assistance Grant Program. The Operations Plan should provide an overview of State and local capabilities and identify when the State may need to request a fire management assistance declaration, detail the State's process for requesting assistance, and provide an outline for grant administration. In rendering a determination on a State's request for a declaration, we would consider the State's resources, capabilities, and other special considerations identified in the Operations Plan.

*Fire Cost Threshold*

We propose to replace the floor cost [2] that we have used in the Fire Suppression Assistance Program with a fire cost threshold that has been designed to ensure that Federal assistance remains supplemental to State and local capabilities under the Fire Management Assistance Grant Program. After we approve a State's request for a declaration, the State could apply for a fire management assistance grant; however, we would only approve a grant when the total eligible costs for a declared fire meet or exceed the fire cost threshold.

In an effort to streamline the Fire Management Assistance Grant Program with other Stafford Act disaster assistance programs and to clarify Federal and State responsibilities better under the new program, we undertook an examination of Federal expenditures approved under the current Fire Suppression Assistance Program from 1990–2000. Our examination showed that we approved 181 fire suppression assistance grants from 1990–2000 and obligated Federal funding in the amount of $238,511,003 during that ten-year period. Of the 181 approved fire suppression assistance grants, however, 55 grants required less than $15,000 in Federal funding. Federal expenditures for these 55 grants totaled $332,583. We found these numbers to be very disconcerting, as both the current and amended versions of section 420 state that assistance is to be provided for those fires burning ''on publicly or privately owned forest or grassland *which threaten such destruction as would constitute a major disaster*.'' (Emphasis added) In general, with dollar expenditures of this amount, a fire or fire complex would not appear to be beyond most States' capabilities to respond and would not be of such a magnitude that they threaten ''such destruction as would constitute a major disaster.'' [3]

Under other Stafford Act disaster assistance programs, we note that some type of monetary threshold must first be met before specific disaster assistance programs providing assistance to individuals, and State and local governments are designated under a major disaster declaration. We have studied the potential effects of basing the fire cost threshold for the Fire Management Assistance Grant Program on per capita costs and feel that five percent of $1.04 per capita of the State population would be appropriate. However, to further ensure that Federal assistance under the Fire Management Assistance Grant Program remains supplemental to State and local resources and capabilities, for those States with a per capita fire cost threshold of less than $100,000, a minimum $100,000 fire cost threshold would have to be met before we would be able to approve any Federal assistance. In determining whether or not a State has met its fire cost

[2] Floor costs are a creation specific to the Fire Suppression Assistance Program. Since its inception in 1969, the Fire Suppression Assistance program has relied on the concept of floor costs to establish monetary thresholds, State-by-State, above which Federal funding is provided for a declared fire. Floor costs represent 5 percent of a State's average annual fire fighting costs, the components of which States interpret variously. As a result of these varied interpretations and reporting of fire related costs there is a great disparity in floor costs from State-to-State. We have also noticed that the floor cost has acted as a disincentive for some States to develop budget and mitigation strategies adequately for combating wildfire (lower costs reported = lower floor cost to meet).

[3] For example, in the last 10 years there have been two fire suppression assistance grants for declared fires which received federal expenditures under $100 ($67 and $89 respectively).

threshold, we will review State's total eligible costs less any pre-positioning costs. The fire cost threshold would be applied to each fire management assistance grant for which a State submits an application. We feel that the fire cost threshold is both reasonable and justified as the majority of fires declared under the Fire Suppression Assistance Program have received grants with very small dollar expenditures which are not beyond State and local capabilities to respond.

It is very important to note that determinations on State requests for fire management assistance declarations would be based solely on criteria established in 44 CFR part 204, and would not be dependent on whether the State met the fire cost threshold. As States submit grant applications under fire management assistance declarations, those applications that meet or exceed the fire cost threshold would be cost-shared in their entirety without deduction of the threshold. Those applications submitted with total eligible costs below the fire cost threshold would be turned down.

In addition to our proposal for the fire cost threshold, we have been contemplating whether we should include a component to the fire cost threshold that would be based on the cumulative effect of numerous, but smaller fires burning in States that we have declared for fire management assistance, but which failed to meet the fire cost threshold. We would appreciate any thoughts or comments interested parties may have regarding the proposed fire cost threshold and the possibility of addressing the cumulative effect of smaller declared fires that do not meet the fire cost threshold.

*Cost Share*

In contemplating the design of the Fire Management Assistance Grant Program, we explored ways that we could simplify the administration of the program for our applicants, while aligning the program with other Stafford Act disaster assistance programs. Consequently, we have determined to replace the three-tier matrix, which starts with a 70 percent Federal, 30 percent non-Federal cost-share and can increase to 100 percent Federal funding. We propose a 75 percent Federal, 25 percent non-Federal cost-share provision similar to that used in other Stafford Act disaster assistance programs, and to allow for 90 percent Federal funding for extraordinary fires.

The changes proposed in this section, when finalized, would simplify the administration of the Fire Management Assistance Grant Program, as well as streamline and align the program with other Stafford Act disaster assistance programs.

**National Environmental Policy Act**

This rule is excluded from the preparation of an environmental assessment or environmental impact statement under 44 CFR 10.8(d)(2)(ii), where the rule is related to actions that qualify for categorical exclusion under 44 CFR 10.8(d)(2)(xix).

**Regulatory Planning and Review**

We have formally submitted this proposed rule to OMB for review. This proposed rule, however, is not economically significant under Executive Order 12866, Regulatory Planning and Review, September 30, 1993; it would not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy or State governments or communities. The rule sets out the administrative requirements for applying for and receiving Federal fire management assistance grants. Based on the history of the Fire Suppression Assistance Program and components proposed in this rule, we anticipate that the total of grants we provide annually will typically not exceed $15 million, though in years with extraordinary fire conditions and activity, we could provide grants totaling over $50 million. We do not anticipate providing over $100 million annually. We have vetted thoroughly all proposed policy changes with the affected constituents.

**Regulatory Flexibility Act**

We certify that this proposed rule would not have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. This proposed rule deals with assistance to States and local governments to provide supplemental Federal assistance to fight fires burning in the wildland/urban interface that threaten such destruction as would constitute a major disaster; it provides program guidance and outlines administrative requirements for the Fire Management Assistance Grant Program as they relate to States and local governments. We developed the proposed rule in consultation with the States and we estimate that the cost impacts of the changes are neutral. Thus, we do not expect the rule (1) to affect adversely the availability of funding to small entities, (2) to have significant secondary or incidental effects on a substantial number of small entities, or (3) to create any additional burden on small entities. We have not prepared a regulatory flexibility analysis.

**Paperwork Reduction Act**

In accordance with the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, we have submitted the collections of information applicable to this proposed rule to the Office of Management and Budget for review and approval.

During the comment period we solicit public comment on:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of FEMA, including whether the information will have practical utility;

(2) Whether our estimate of the burden of the proposed collection of information is accurate, including the validity of the methodology and assumptions that we used;

(3) What we might do to enhance the quality, utility, and clarity of the information that we are to collect; and

(4) What other measures we can take to minimize the burden of the collection of information on those who are to respond, including the use of automated, electronic, mechanical, electronic submission of responses, or other technological collection techniques.

Following is a summary of how each form will be used:

(a) *FEMA-State Agreement.* We provide Federal assistance under section 420 of the Stafford Act and a FEMA-State Agreement for the Fire Management Assistance Grant Program. The Governor and the Regional Director sign the Agreement, which contains the necessary terms and conditions consistent with the provisions of applicable laws and Executive Orders, and specifies the type and extent of Federal assistance to be provided. Supplemental agreements may be executed as necessary to update the agreement.

(b) *FEMA Form 90–58 Request for Fire Management Assistance* is used by the State to provide information to support the need for a declaration. Additional supporting information may be furnished by the State or requested by FEMA after the initial request has been received. Since the program will operate on a ''real-time'' incident basis, a request for a declaration must be submitted while a fire(s) is burning and uncontrolled. A State may request a declaration by telephone, promptly following up the conversation with the FEMA Form 90–58.

(c) *Standard Form 424 Request for Federal Assistance* must be completed by the State when applying for a grant

under a declared fire. The 424 and accompanying documentation must be submitted by a State to FEMA's Regional Director within nine months of declared fire. The 424 documents the incident period of the fire, the performance period of the grant, and all costs claimed under the approved declaration.

(d) *FEMA Form 90–91 Project Worksheet* is prepared by the Principal Advisor and FEMA and State staff working with the applicant. The PW is used to report on the costs incurred by applicant for mitigation, management, and control activities and is used by FEMA to reimburse applicants based on eligible costs as described in the proposed regulation for the Fire Management Assistance Program.

(e) A State *Administrative Plan* must be developed by the State for the administration of the fire management assistance grant. The plan must designate the State agency which has responsibility for program administration; ensure State compliance with the provisions of law and regulation applicable to fire management assistance grants, and ensure that the administrative plan is incorporated into the Operations Plan.

(f) *FEMA Form 20–10, Financial Status Report*, is used by the State in its final reporting of costs under the Fire Management Assistance Grant Program.

(g) *Standard Form 270, Request for Advance or Reimbursement*, is used by the State as an option to receive funds. The other option is use of FEMA's Letter of Credit procedures.

(h) *Operations Plan.* The State must submit the Operations Plan within 6 months of the date of the first declared fire and reviewed and updated on a yearly basis in order for a State to submit a 424 to FEMA. The Operations Plan should provide an overview of State and local capabilities, identify when the State may need to request a fire management assistance declaration, detail the State's process for requesting assistance, and outline the grant's administration. In rendering a determination on a State's request for a declaration, the Assistant Director would consider the State's resources, capabilities, and other special considerations identified in the Operations Plan.

(i) *Hazard Mitigation Plan.* A plan to develop actions the State, local, or tribal government will take to reduce the risk to people and property from all hazards. The intent of hazard mitigation planning under the Fire Management Assistance Grant Program is to identify wildfire hazards and to implement actions that produce continual benefits and have a long-term impact. Mitigation of fire hazards is addressed as part of the State's comprehensive Hazard Mitigation Plan, described in 44 CFR part 206 Subpart M.

(j) *Appeals.* When a State's request for a fire management assistance declaration is denied, the Governor of a State or Governor's Authorized Representative may appeal the decision in writing. Likewise, applicants may appeal any cost or eligibility determination under an approved declaration. Appeals usually consist of a letter briefly describing the reason for the appeal and any new supporting documentation the State or applicant submits to FEMA for review.

(k) *Duplication of Benefits.* Applicants are required to notify FEMA of all benefits, actual or anticipated, received from other sources for the same loss for which they are applying to FEMA for assistance. Notification can be accomplished in a letter, accompanied by supporting documentation.

The estimated hour burden is:

| Burden item | Hours per respondent | Respondents per year | Burden hours per year | Comments |
|---|---|---|---|---|
| FEMA-State Agreement | 5 minutes | 9 | 1 | We estimate 5 minutes for the Governor to sign this agreement which has the terms and conditions for the Fire Management Assistance Grant Program (FMAGP). |
| FEMA Form 90–58 | 1 hour | 9 | 9 | States use this form to support their request for a declaration. |
| Standard Form 424 | 1 hour | 9 | 9 | The State must complete this form and attachments when applying for a grant under a declared fire. |
| FEMA Form 90–91 | 30 minutes | 1,000 | 500 | Prepared by the Principal Advisor, FEMA and State staff, and the applicant. This form documents the costs incurred by an applicant for mitigation, management, and control activities associated with a declared fire and to reimburse applicants based on eligible costs describe din the proposed regulations for the FMAGP. |
| FEMA Form 20–10 | 1 hour | 9 | 9 | The State uses this to submit a final reporting of costs for a fire management assistance grant (FMAG). |
| Standard Form 270 or Letter of Credit. | 30 minutes | 9 | 5 | The State uses this form as an option to receive funds. The other option is use of FEMA's Letter of Credit procedures. |
| State Administrative Plan | 8 hour | 9 | 72 | The State must develop this plan for administration of the FMAG. |
| Operations Plan | 20 hours | 9 | 180 | The Operation Plan provides an overview of State and local capabilities, identifies when the State may need to request a fire management assistance declaration, details the State's process for requesting assistance, and outlines the grant's administration. |
| State Hazard Mitigation Plan | 160 | 9 | 1440 | A plan to develop actions the State, local, or tribal government will take to reduce the risk to people and property from all hazards. The State Hazard Mitigation Plan is to identify wildfire hazards and to implement actions that produce continual benefits and have a long-term impact. Mitigation of fire hazards are part of the State's comprehansive Hazard Mitigation Plan, 44 CFR Part 206, Subpart M. |
| Appeals | 1 | 20 | 20 | Appeals usually consist of a letter briefly describing the reason for the appeal and any new supporting evidence for review. |
| Duplication of Benefits | 1 | 20 | 20 | Notification consists of a letter and supporting documentation. |
| Total Burden Hours | | | 2,265 | |

For the purposes of this rule we estimate the following annual cost burdens:

| Requests from: | No. requests | Est'd hours/ requester | Cost/hour | Costs/year |
|---|---|---|---|---|
| States | 9 | 194 | $40 | $69,840 |
| Local Governments | 1,000 | 0.52 | $20 | $10,400 |
| Totals Costs/Year | ..... | ..... | ..... | $80,240 |

**Executive Order 13132, Federalism**

This rule involves no policies that have federalism implications under Executive Order 13132, Federalism, dated August 4, 1999. The rule establishes the administrative requirements for the Fire Management Assistance Grant Program in applying for and receiving Federal grants. It involves no preemption of State law nor does it limit State policymaking discretion. Nevertheless, in the course of designing the Fire Management Assistance Grant Program, we met with State emergency managers and foresters, and representatives from Tribal governments and the Forest Service, USDA, in January 2001 to gather input on the failings of the Fire Suppression Assistance Program and to see what steps we could take to improve the delivery of assistance under the Fire Management Assistance Grant Program. Based upon their input, we drafted these proposed regulations. Both FEMA and State concerns and the extent to which this rule meets those concerns are set out earlier in the preamble. Following that meeting we continued to solicit reactions from the States involved in order to address their needs in applying for and receiving Federal fire management assistance.

**Executive Order 13175, Consultation and Coordination With Indian Tribal Governments**

We have reviewed the proposed rule under Executive Order 13175, which became effective on February 6, 2001. Under the Fire Management Assistance Grant Program, tribal governments will have the option to submit requests for fire management assistance declarations directly to us and to serve as ''Grantee,'' carrying out ''State'' roles when a grant application under the declaration has been approved. In January 2001, we met with foresters and emergency managers representing eight States, Indian tribes, the Forest Service, USDA, and four FEMA Regional offices to discuss the Disaster Mitigation Act of 2000 amendments to Section 420 and the implementation of the new program on October 30, 2001. We received invaluable input from all parties, which helped us to develop the proposed rule for the Fire Management Assistance Grant Program.

In reviewing the proposed rule, we find that the proposed rule does not have ''tribal implications'' as defined in Executive Order 13175 because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Moreover, the proposed rule does not impose substantial direct compliance costs on tribal governments, nor does it preempt tribal law, impair treaty rights or limit the self-governing powers of tribal governments.

**List of Subjects in 44 CFR Part 204**

Administrative practice and procedure, Fire management assistance, Grant programs—fire management, Reporting and recordkeeping requirements.

Accordingly, FEMA proposes to add Part 204 to Subchapter D of 44 CFR, to read as follows:

## PART 204—FIRE MANAGEMENT ASSISTANCE GRANT PROGRAM

### Subpart A—General

Sec.

204.1 Purpose.
204.2 Scope.
204.3 Definitions used throughout this part.
204.4–204.20 [Reserved]

### Subpart B—Declaration Process

204.21 Fire management assistance declaration criteria.
204.22 Submitting a request for a fire management assistance declaration.
204.23 Processing a request for a fire management assistance declaration.
204.24 Determination on request for a fire management assistance declaration.
204.25 FEMA-State Agreement for Fire Management Assistance Grant Program.
204.26 Appeal of fire management assistance declaration denial.
204.27–204.40 [Reserved]

### Subpart C—Eligibility

204.41 Eligible applicants.
204.42 Eligible costs.
204.43 Ineligible costs.
204.44–204.50 [Reserved]

### Subpart D—Application Procedures

204.51 Application and approval procedures for a fire management assistance grant.
204.52 Application and approval procedures for a subgrant under a fire management assistance grant.
204.53 Certifying costs and payments.
204.54 Appeal of cost and eligibility determinations.
204.55–204.60 [Reserved]

### Subpart E—Grant Administration

204.61 Cost share.
204.62 Duplication of programs.
204.63 Allowable costs.
204.64 Reporting and audit requirements.

**Authority:** Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148, 44 FR 43239, 3 CFR, 1979 Comp., p. 412; and E.O. 12673, 54 FR 12571, 3 CFR, 1989 Comp., p. 214.

### Subpart A—General

#### § 204.1 Purpose.

This part provides information on the policies and procedures for the declaration process, eligibility, grant application and administrative requirements for the Fire Management Assistance Grant Program in accordance with the provisions of section 420 of the Stafford Act. We (FEMA) will actively work with State and Tribal emergency managers and foresters on the efficient delivery of fire management assistance as directed by this part.

#### § 204.2 Scope.

This part is intended for those individuals responsible for requesting declarations and administering grants under the Fire Management Assistance Grant Program, as well as those applying for assistance under the program.

#### § 204.3 Definitions used throughout this part.

*Applicant.* A State or tribal government submitting an application to us for a fire management assistance grant, or a State, local, or tribal government submitting an application to the Grantee for a subgrant under an

approved fire management assistance grant.

*Associate Director.* The Associate Director or Assistant Director, as applicable, of the Readiness, Response and Recovery Directorate of FEMA, or his/her designated representative.

*Declared fire.* An uncontrolled fire, threatening such destruction as would constitute a major disaster, which the Associate Director has approved in response to a State's request for a fire management assistance declaration and in accordance with the criteria listed in § 204.21.

*Demobilization.* The process and procedures for deactivating, disassembling, and transporting back to their point of origin all resources that had been provided to respond to and support an incident.

*FEMA-State agreement for the Fire management assistance grant program (''the Agreement.'')* An agreement signed by the Governor of a State and the Regional Director. The agreement contains the necessary terms and conditions, consistent with the declaration and the provisions of applicable laws, Executive Orders, and regulations as the Associate Director may require with respect to the amount of funding to be provided. The agreement specifies the type and extent of Federal assistance to be provided, including descriptions of the incident period and cost sharing provisions, as well as any articles of agreement necessary for the administration of a grant approved under a fire management assistance declaration.

*Fire complex.* Two or more individual fires located in the same general area, which are assigned to a single Incident Commander.

*Fire severity index.* A number indicating the relative severity of the forest or grassland fire danger as determined from burning conditions and other variable factors of fire danger.

*Governor's Authorized Representative (GAR).* The person empowered by the Governor to execute, on behalf of the State, all necessary documents for fire management assistance, including the request for a fire management assistance declaration.

*Grant.* An award of financial assistance, including cooperative agreements, by FEMA to an eligible grantee. The grant award shall be based on the projected amount of total eligible costs for which a State submits an application and that FEMA approves related to a declared fire.

*Grantee.* The State agency, as designated in the FEMA-State Agreement, to which a grant is awarded and which is accountable for the use of funds provided. An Indian tribe or authorized tribal organization may be the Grantee and carry out ''state'' roles when it applies directly to FEMA. For purposes of this part, except as noted, the State is the Grantee.

*Hazard mitigation plan.* A plan to develop actions the State, local, or tribal government will take to reduce the risk to people and property from all hazards. The intent of hazard mitigation planning under the Fire Management Assistance Grant Program is to identify wildfire hazards and to implement actions that produce continual benefits and have a long-term impact. We address mitigation of fire hazards as part of the State's comprehensive Hazard Mitigation Plan, described in 44 CFR part 206, subpart M.

*Incident commander.* The ranking official responsible for overseeing the management of fire operations, planning, logistics, and finance of the field response.

*Incident period.* The period established by the Regional Director, in consultation with the Governor's Authorized Representative and the Principal Advisor, for the purpose of providing assistance under a fire management assistance declaration. The incident period usually begins with the start of firefighting activities and ends with the completion of mop-up activities. For grant administration purposes, the incident period generally defines the time limits for eligible costs.

*Individual assistance.* Supplementary Federal assistance provided under the Stafford Act to individuals and families adversely affected by a major disaster or an emergency. Such assistance may be provided directly by the Federal Government or through State or local governments or disaster relief organizations. For further information, see subparts D, E, and F of 44 CFR part 206.

*Mitigation, management, and control.* Those activities undertaken, generally during the incident period of a fire or fire complex, to minimize immediate adverse effects and to manage and control a fire or fire complex. Eligible activities may include associated emergency work and pre-positioning directly related to the fire for which a fire management assistance declaration was approved.

*Mobilization.* The process and procedures used for activating, assembling, and transporting all resources that the Grantee requested to respond to support an incident.

*Operations Plan for the Fire Management Assistance Grant Program.* A plan that the State develops, in coordination with FEMA, that provides an overview of the State and local capabilities and identifies when the State may need to request a fire management assistance declaration, details the State's process for requesting assistance, and outlines the grant's administration. The Operations Plan will assist the Associate Director in evaluating a State's request for a fire management assistance declaration.

*Pre-positioning.* Moving existing fire prevention or suppression resources from an area of lower fire danger to one of higher fire danger in anticipation of an increase in wildland fire activity. The intent of pre-positioning is to prepare for a likely event rather than react to an event.

*Principal advisor.* An individual appointed by the Forest Service, United States Department of Agriculture, or Bureau of Land Management, Department of the Interior, who is responsible for providing FEMA with a technical assessment of the fire or fire complex for which a State is requesting a fire management assistance declaration.

*Project worksheet.* FEMA Form 90–91, which identifies actual costs incurred by eligible applicants as well as quantitative estimates for outstanding work still to be performed as a result of the eligible firefighting activities.

*Public assistance.* Supplementary Federal assistance provided under the Stafford Act to State and local governments or certain private, nonprofit organizations other than assistance for the direct benefit of individuals and families. For further information, see subparts G and H of 44 CFR part 206.

*Regional Director.* A director of a regional office of FEMA, or his/her designated representative.

*Stafford Act.* The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.*

*Subgrant.* An award of financial assistance under a grant by a Grantee to an eligible subgrantee.

*Subgrantee.* An applicant that is awarded a subgrant and is accountable to the Grantee for the use of grant funding provided.

*Threat of a major disaster.* The potential impact of the fire or fire complex is of a severity and magnitude that would result in a presidential major disaster declaration for the Public Assistance program, the Individual Assistance Program, or both.

*Uncontrolled fire.* Any fire not safely confined to predetermined control lines as established by fire suppression forces.

*We, our, us* mean FEMA.

*Wildland/urban interface.* The geographical meeting point of two diverse systems, wildland and densely populated, built up environment. At this interface, structures and vegetation are sufficiently close such that a forest or grassland fire could spread to structures or a structure fire could ignite vegetation.

**§§ 204.4–204.20 [Reserved]**

## Subpart B—Declaration Process

### § 204.21 Fire management assistance declaration criteria.

(a) *Determinations.* We will approve declarations for fire management assistance when the Associate Director determines that a fire or fire complex threatens such destruction as would constitute a major disaster.

(b) *Evaluation criteria.* We will evaluate the threat posed by a fire or fire complex based on consideration of the following specific criteria:

(1) Threat to lives and improved property, including threats to critical facilities/infrastructure, and critical watershed areas;

(2) Availability of State and local firefighting resources;

(3) High fire danger conditions, as indicated by nationally accepted indices such as the National Fire Danger Ratings System;

(4) Potential impact on environmental and historic/cultural resources; and

(5) Potential major economic impact.

### § 204.22 Submitting a request for a fire management assistance declaration.

(a) *Submission of request.* The Governor of a State, or the Governor's Authorized Representative (GAR), may submit a request for a fire management assistance declaration. The request must be submitted while the fire is burning uncontrolled and threatens such destruction as would constitute a major disaster. The request must be submitted to the Regional Director and should address the relevant criteria listed in § 204.21, with supporting documentation that contains factual data and professional estimates on the fire or fire complex. To ensure that we can process a State's request for a fire management assistance declaration as expeditiously as possible, the State should transmit the request by telephone, promptly followed by written documentation (FEMA Form 90–58).

(b) *State Operations Plan for the Fire Management Assistance Program.* (1) *General.* To assist us in evaluating the State's request for a fire management assistance declaration in accordance with the provisions of this part, each State must develop and maintain an Operations Plan for the Fire Management Assistance Grant Program.

(2) *Content of Plan.* The Operations Plan should identify when the State will request a declaration based on State and local capabilities. We expect the following components to be specifically addressed in the Operations Plan:

(i) Identification of FEMA and State points of contact;

(ii) Identification of jurisdictional responsibility for fighting fire;

(iii) Identification of the legislative authority for firefighting, and compliance with the laws and provisions applicable to the Fire Management Assistance Grant Program;

(iv) Total State firefighting resources available under normal conditions (using historical data), specification of staffing requirements, and roles and responsibilities;

(v) Examples of the conditions and situations under which the State would expect to request a fire management assistance grant and details of the State's process for requesting assistance;

(vi) Mobilization plan;

(vii) Hazard mitigation plan, which among other things identifies land and property at risk from fires (see § 204.51(d)(2)); and

(viii) State administrative plan for fire management assistance grants (see § 204.51(d)(1)).

(3) *Development and distribution of plan.*

(i) The Regional Director's staff will work with the State to develop the Operations Plan. Once complete, the State should distribute copies of the Operations Plan to the Regional Director, who will forward a copy to the Associate Director.

(ii) The State must submit an acceptable Operations Plan within six (6) months of the approval of its first request for a declaration. We may approve declarations requested within this six-month period based on the information provided in the State's request. The State must submit an acceptable Operations Plan before it can apply for a grant under this part 204.

(iii) If the State fails to develop and submit an acceptable Operations Plan within the 6-month period allowed, the State forfeits the opportunity to apply for any grants under declarations approved within that 6-month period. In addition, we will deny subsequent requests for declarations until such a time as the State submits an acceptable Operations Plan.

(iv) The Operations Plan should be reviewed on a yearly basis and updated as necessary. The Operations Plan should be designed so that State capabilities and resources are further enhanced or built-upon to better meet the needs of current and future wildfire firefighting efforts. States may not submit Operations Plans that effectively reduce or lower capabilities and resources from prior year levels.

### § 204.23 Processing a request for a fire management assistance declaration.

(a) In processing a request for a fire management assistance declaration, the Regional Director, in coordination with the Principal Advisor, will verify the information submitted in the State's request. Typically, verification is based on the Principal Advisor's Assessment and the Regional Summary.

(b) The Regional Director will then forward the request to the Associate Director for determination, with the Principal Advisor's Assessment and the Regional Summary.

(1) *Principal Advisor's Assessment.* The Principal Advisor, at the request of the Regional Director, is responsible for providing a technical assessment of the fire or fire complex for which the State is requesting a fire management assistance declaration.

(2) *Regional summary.* Upon obtaining all necessary information on the fire or fire complex from the State and the Principal Advisor, the Regional Director will prepare a summary report to accompany the State's request. The summary should include a discussion of the threat of a major disaster.

### § 204.24 Determination on request for a fire management assistance declaration.

The Associate Director will review all information submitted in the State's request along with the Principal Advisor's assessment and Regional summary and render a determination. When possible, the Associate Director will evaluate the request and make a determination within several hours. Once the Associate Director makes a determination, the Associate Director will promptly notify the Regional Director. The Regional Director will then inform the State of the determination.

### § 204.25 FEMA-State agreement for fire management assistance grant program.

At the beginning of each calendar year, the Governor and the Regional Director will enter into a year-long FEMA-State Agreement for the Fire Management Assistance Grant Program (Agreement). The State must have a current signed Agreement before receiving Federal funding for fire management assistance grants. We will provide no FEMA funding absent a signed Agreement. The parties may add properly executed amendments to

modify the standing Agreement throughout the year when needed for program changes or when signatory parties change.

**§ 204.26 Appeal of fire management assistance declaration denial.**

(a) *Submitting an appeal.* When we deny a State's request for a fire management assistance declaration, the Governor or GAR may appeal the decision in writing within 30 days after the date of the letter denying the request. The State should submit this one-time request for reconsideration in writing, with appropriate additional information, to the Associate Director through the Regional Director. The Associate Director will notify the State of his/her determination on the appeal, in writing, within 90 days of the receipt of the appeal or the receipt of additional requested information.

(b) *Requesting a time-extension.* The Associate Director may extend the 30-day period provided that the Governor or the GAR submits a written request for such an extension within the 30-day period. The Associate Director will evaluate the need for an extension based on the reasons cited in the request and either approve or deny the request for an extension.

**§§ 204.27–204.40 [Reserved]**

## Subpart C—Eligibility

**§ 204.41 Eligible applicants.**

(a) The following entities are eligible to apply for a subgrant under an approved fire management assistance grant:

(1) State and local governments; and

(2) Indian tribes or authorized tribal organizations and Alaska Native villages or organizations, *but not* Alaska Native corporations, the ownership of which is vested in private individuals. A tribe or Alaska Native village may apply either to the State or directly to FEMA.

(b) Entities that are not eligible to apply for a subgrant as identified in paragraph (a) of this section, such as privately owned entities and volunteer firefighting organizations, may be reimbursed through a contract or compact with an eligible applicant for eligible costs associated with the fire or fire complex.

(c) Eligibility is contingent upon the findings that the resources were requested by the Incident Commander or other comparable State official.

(d) The activities performed must be the legal responsibility of the applying entity, required as the result of the fire or fire complex for which a fire management assistance declaration was approved, and located within the declared area.

**§ 204.42 Eligible costs.**

(a) *General.* (1) All eligible work and related costs must be associated with the incident period of a declared fire.

(2) Before obligating Federal funds the Regional Director must review and approve the initial grant application, along with project worksheets submitted with the application and any subsequent amendments to the application.

(3) Federal funds will be awarded to subgrantees in accordance with State law and procedure and in compliance with 44 CFR part 13.

(b) *Equipment and supplies.* Personal comfort and safety items normally provided by the State under field conditions for firefighter health and safety, including:

(1) Firefighting supplies, tools, materials, expended or lost, to the extent not covered by reasonable insurance, will be reimbursed based on the cost to replace new comparable items. (Examples: shovels, fire boots, and retardant).

(2) Operation and maintenance costs of publicly owned, contracted, rented, or volunteered equipment used in eligible firefighting activities.

(3) Use of U.S. Government-owned equipment based on reasonable costs as billed by the Federal agency and paid by the State. (Note: only direct costs for use of Federal Excess Personal Property (FEPP) vehicles and equipment on loan to State Forestry and local cooperators may be eligible).

(4) Repair of equipment damaged in fire suppression activities, to the extent not covered by reasonable insurance, may be funded based on reasonable State equipment rates or FEMA equipment rates, whichever are lower.

(5) Replacement of equipment lost or destroyed in fire suppression activities, to the extent not covered by reasonable insurance, will be based on the actual depreciated value of the equipment.

(b) *Labor costs.* (1) Federal funding under the fire management assistance grant for labor costs may be provided for:

(i) Overtime for permanent or reassigned state and local employees.

(ii) Regular time and overtime for temporary and contract employees hired to perform fire related activities.

(2) The straight or regular time salaries and benefits of a subgrantee's permanently employed personnel (for example, firefighters) are not eligible in calculating the costs of eligible work under sections 403 and 420 of the Stafford Act.

(c) *Travel and per diem costs.* Travel and per diem of employees who are providing services directly associated with eligible fire related activities may be eligible. This includes:

(1) Expenses to provide field camps and meals when made available in place of per diem; as well as

(2) Travel and per diem expenses incurred by the Principal Advisor east of the Mississippi River and in Texas.

(d) *Pre-positioning costs.* The actual costs of pre-positioning Federal resources for up to two weeks before the declaration may be eligible when those resources are used in response to a declared fire at the Incident Commander's request. For extraordinary fire events, the Regional Director may authorize funding for the actual cost of pre-positioning out-of-State and international resources, in addition to Federal resources, for up to 30 days before the declaration, when those resources were used on the declared fire at the Incident Commander's request.

(e) *Emergency work.* We may authorize the use of section 403, Essential Assistance, under an approved fire management assistance grant when directly related to the mitigation, management, and control of the declared fire. Essential assistance activities that may be eligible include police barricading and traffic control, extraordinary emergency operations center expenses, evacuations and sheltering, search and rescue, arson investigation teams, public information, and the limited removal of trees that pose a threat to the general public.

(f) *Repair of damage caused by firefighting activities.* Repair of damage caused by eligible firefighting activities listed in this subpart involves short term actions to repair and rehabilitate damage to lands, resources, and facilities directly caused by the wildland fire suppression effort or activities. This includes bulldozer lines, camps, and staging areas; damaged facilities (fences, buildings, bridges, etc.), handlines, roads, etc. This work should be complete before demobilization, or as soon thereafter as practicable. Damage caused by backfires and burnouts to stop fire spread falls under fire damage restoration and does not qualify as damage caused by firefighting activities.

(g) *Mobilization and demobilization.* Costs for mobilization to, and demobilization from, a fire or fire complex may be eligible for reimbursement. Demobilization may be claimed at a delayed date if deployment involved one or more approved events. If claiming mobilization and demobilization charges at a delayed

date, such charges must be claimed against the first declared fire or fire complex.

(h) *Fires on co-mingled Federal/State lands.* Reasonable costs for the mitigation, management, and control of a fire or fire complex burning on Federal land may be eligible in cases where the State has a responsibility for suppression activities under an agreement to perform such action on a non-reimbursable basis. (This provision is an exception to normal FEMA policy under the Act and is intended to accommodate only those rare instances that involve State firefighting on a Stafford Act section 420 fire incident involving co-mingled Federal/State and privately-owned forest or grassland.)

**§ 204.43 Ineligible costs.**

Costs not directly associated with the incident period are ineligible. The exception to this item involves costs associated with eligible pre-positioning, mobilization and demobilization activities, and grant administrative requirements, which are directly related to the approved fire management assistance grant. Additional ineligible costs include:

(a) Costs incurred in the mitigation, management, and control of undeclared fires;

(b) Costs related to planning, presuppression (i.e., cutting fire-breaks without the presence of an imminent threat, training, road widening, and other similar activities), and recovery (i.e., land rehabilitation activities, such as seeding, planting operations, and erosion control, or the salvage of timber and other materials, and restoration of facilities damaged by fire);

(c) Regular time costs for permanent or reassigned employees of the applicant;

(d) Costs for mitigation, management, and control of a fire on co-mingled Federal land when such costs are reimbursable to the State by a Federal agency under another statute (See 44 CFR part 151);

(e) Fires fought on Federal land are generally the responsibility of the Federal Agency that owns or manages the land. Costs incurred while fighting fires on federally owned land are not eligible under the Fire Management Assistance Grant Program except as noted in § 204.42(i).

**§§ 204.44–204.50 [Reserved]**

## Subpart D—Application Procedures

**§ 204.51 Application and approval procedures for a fire management assistance grant.**

(a) *Preparing and submitting an application.* (1) After the approval of a fire management assistance declaration, the State may submit an application package for a grant to the Regional Director. The application package must include the SF 424 and FEMA Form 20–16a, as well as supporting documentation for the budget.

(2) The State should submit its application within nine months of the declaration. Upon the request of the State, the Regional Director may grant an extension for up to 3 months. The State's request must include a justification for the extension.

(b) *Fire Cost Threshold.* (1) We will approve the initial grant award to the State when we determine that the State's application demonstrates that the total eligible costs for a declared fire meet or exceed the fire cost threshold. The fire cost threshold for a State is the greater of the following:

(i) $100,000; or

(ii) five percent of $1.04 per capita of the State population, adjusted periodically for inflation using the Consumer Price Index for All Urban Consumers published annually by the Department of Labor.

(2) States must document the total eligible costs for a declared fire on project worksheets, which they must submit with the grant award application.

(3) We will not consider the costs of pre-positioning resources for the purposes of determining whether the application meets the fire cost threshold.

(4) When the State's total eligible costs associated with the fire management assistance declaration meet or exceed the fire cost threshold eligible costs will be cost shared in accordance with § 204.61.

(c) *Approval of the grant award.* The Regional Director has 45 days from receipt the State's grant application or an amendment to the State's grant application, including attached supporting project worksheet(s), to review and approve or deny the grant application or amendment; or to notify the Grantee of a delay in processing funding.

(d) *Obligation of the Grant.* Before we approve a grant award, the Grantee must submit a State Administrative Plan and a Hazard Mitigation Plan to the Regional Director for review and approval. Once approved, the Grantee must incorporate these plans into the State Operations Plan for the Fire Management Assistance Program under § 204.22 (b)(2)(viii).

(1) *State administrative plan.* (i)The State shall develop an Administrative Plan (or have a current Administrative Plan on file with FEMA) that describes the procedures for the administration of the Fire Management Assistance Grant Program. The Plan shall include, at a minimum, the items listed below:

(A) The designation of the State agency or agencies which will have responsibility for program administration.

(B) The identification of staffing functions for the Fire Management Assistance Program, the sources of staff to fill these functions, and the management and oversight responsibilities of each.

(C) The procedures for:

*(1)* Notifying potential applicants of the availability of the program;

*(2)* Assisting FEMA in determining applicant eligibility;

*(3)* Submitting and reviewing subgrant applications;

*(4)* Processing payment for subgrants;

*(5)* Submitting, reviewing, and accepting subgrant performance and financial reports;

*(6)* Monitoring, close-out, and audit and reconciliation of subgrants;

*(7)* Recovering funds for disallowed costs;

*(8)* Processing appeal requests and requests for time extensions; and

*(9)* Providing technical assistance to applicants and subgrant recipients, including briefings for potential applicants and materials on the application procedures, program eligibility guidance and program deadlines.

(ii) As with the development of the State Operations Plan for the Fire Management Assistance Program, the Grantee may request the RD to provide technical assistance in the preparation of the State Administrative Plan.

(2) *Hazard Mitigation Plan.* As a requirement of receiving funding under a fire management assistance grant a State or tribal organization, acting as Grantee, must:

(i) Develop a Hazard Mitigation Plan in accordance with 44 CFR part 206, subpart M, that addresses wildfire risks and mitigation measures; or

(ii) Incorporate wildfire mitigation into the existing Hazard Mitigation Plan developed and approved under 44 CFR part 206, subpart M that also addresses wildfire risk and contains a wildfire mitigation strategy and related mitigation initiatives.

**§ 204.52 Application and approval procedures for a subgrant under a fire management assistance grant.**

(a) *Request for Fire Management Assistance.* (1) State, local, and tribal governments interested in applying for subgrants under an approved fire management assistance grant must submit a Request for Fire Management Assistance to the Grantee in accordance with State procedures and within timelines set by the Grantee, but no longer than 30 days after the date of the declaration.

(2) The Grantee will review and approve the Request in accordance with § 204.41, and forward the Request to the Regional Director for final review and approval.

(3) The Regional Director will approve or deny the request based on the eligibility requirements outlined in § 204.41, Eligible applicants.

(b) *Preparing a project worksheet.* Once the Regional Director approves an applicant's Request for Fire Management Assistance, the Regional Director's staff may begin to work with the Principal Advisor and the Grantee and local staff to prepare Project Worksheets (FEMA Form 90–91). The State will be the primary contact for transactions with and on behalf of the applicant.

(c) *Submitting a project worksheet.* (1) Applicants should submit all Project Worksheets through the Grantee for approval and transmittal to the Regional Director as amendments to the State's application.

(2) The Grantee will determine the deadline for an applicant to submit completed Project Worksheets, but the deadline must be no later than six months from the date of the declaration.

(3) At the request of the Grantee, the Regional Director may grant an extension of up to three months. The Grantee must include a justification in its request for an extension.

(4) *$1,000 project worksheet minimum.* When the costs reported are less than $1,000, that work is not eligible and we will not approve that Project Worksheet.

**§ 204.53 Certifying costs and payments.**

(a) The Grantee must certify that all costs reported on applicant project worksheets were incurred for work that was performed in compliance with FEMA law, regulation, policy and guidance applicable to the Fire Management Assistance Grant Program, as well as with the terms and conditions outlined for the administration of the grant in the FEMA-State Agreement for the Fire Management Assistance Grant Program.

(b) Advancement/Reimbursement for State grant costs will be:

(1) Processed through the U.S. Department of Health and Human Services SMARTLINK system; and

(2) In compliance with 44 CFR 13.21 and 31 CFR part 205.

**§ 204.54 Appeal of cost and eligibility determinations.**

Applicants may appeal any cost or eligibility determination FEMA makes related to a fire management assistance grant through a two level appeal process.

(a) *First level appeal.* Applicants should submit the first level appeal through the State to the Regional Director, in writing, within 60 days after a receipt of notice of the action being appealed. The Regional Director will notify the State of the decision in writing within 90 days of the receipt of the appeal or the receipt of additional requested information.

(b) *Second level appeal.* Applicants should submit the second level appeal to the Associate Director through the State and Regional Director, in writing, within 60 days of receipt of the Regional Director's denial. The Associate Director will notify the State of the decision in writing within 90 days of the receipt of the appeal or the receipt of additional requested information. The decision of the Associate Director is the final decision for the Agency.

(c) *Technical advice.* In appeals involving highly technical issues, the Associate Director or Regional Director may, in his or her discretion, submit the appeal to an independent scientific or technical individual(s) who may provide subject matter expertise. The period for this technical review may be in addition to other allotted time periods. Within 90 days of the receipt of the report, the Regional Director or Associate Director will notify the Grantee in writing of the disposition of the appeal.

**§§ 204.55–204.60 [Reserved]**

## Subpart E—Grant Administration

**§ 204.61 Cost share.**

(a) All fire management assistance grants are subject to a cost share. The Federal cost share for fire management assistance grants is seventy-five percent (75%). However, for extraordinary fire events, the Associate Director may increase the Federal cost to ninety percent (90%) whenever actual Federal obligations under this part, excluding FEMA administrative costs, meet or exceed a qualifying threshold as defined in 44 CFR 206.47(b). As stated in § 204.25, provisions for the cost share will be outlined in the terms and conditions of the FEMA State Agreement for Fire Management Assistance.

(b) In making a determination to adjust the Federal cost share to 90 percent, the Associate Director will take into consideration the impact of declared fires in the State during the calendar year.

**§ 204.62 Duplication of programs.**

(a) *Duplication of benefits.* We provide supplementary assistance under the Stafford Act, which generally may not duplicate benefits received by or available to the applicant from insurance, other assistance programs, legal awards, or any other source to address the same purpose. An applicant must notify us of all benefits that it receives or anticipates from other sources for the same purpose, and must seek all such benefits available to them. We will reduce the grant by the amounts available for the same purpose from another source. We may provide assistance under this part when other benefits are available to an applicant, but the applicant will be liable to us for any duplicative amounts that it receives or has available to it from other sources, and must repay us for such amounts.

(b) *Duplication of programs.* We will not provide assistance under this Part for activities for which another Federal agency has more specific or primary authority to provide assistance for the same purpose. We may disallow or recoup amounts that fall within another Federal agency's authority. We may provide assistance under this part, but the applicant must agree to seek assistance from the appropriate Federal agency and to repay us for amounts that are within another Agency's authority.

(c) *Negligence.* We will provide no assistance to an applicant for costs attributable to applicant's own negligence. If the applicant suspects negligence by a third party for causing a condition for which we made assistance available under this part, the applicant is responsible for taking all reasonable steps to recover all costs attributable to the negligence of the third party. We generally consider such amounts to be duplicated benefits available to the grantee or subgrantee, and will treat them consistent with paragraph (a) of this section.

**§ 204.63 Allowable costs.**

(a) 44 CFR 13.22 establishes general policies for determining allowable costs.

(b) We will reimburse direct costs for the administration of a fire management assistance grant under 44 CFR part 13.

(c) We will reimburse indirect costs for the administration of a fire management assistance grant in compliance with the Grantee's approved indirect cost rate under OMB Circular A–87, or, at our option, as management costs under section 324 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

**§ 204.64 Reporting and audit requirements.**

(a) *Reporting.* Within 90-days of the Performance Period expiration date, the State shall submit a final:

(1) Financial Status Report (FEMA Form 20–10), which reports all costs incurred within the incident period and all administrative costs incurred within the performance period; and

(2) Performance period, which certifies that only costs approved in the application received reimbursement for costs identified in the subgrant application.

(b) *Audit.* (1) Audits will be performed, for both the Grantee and the subgrantees, under 44 CFR 13.26 or OMB Circular A–133, as appropriate.

(2) FEMA may elect to conduct a program-specific Federal audit on the Fire Management Assistance Grant or a subgrant.

Dated: July 25, 2001.

**Michael D. Brown,**

*General Counsel.*

[FR Doc. 01–19011 Filed 7–31–01; 8:45 am]

**BILLING CODE 6718–02–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 01–1769, MM Docket No. 01–163, RM–10134]**

### Digital Television Broadcast Service; Bozeman, MT

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Montana State University, licensee of noncommercial station KUSM(TV), NTSC channel *9, Bozeman, Montana, requesting the substitution of DTV channel *8 for station KUSM(TV)'s assigned DTV channel *20. DTV Channel *8 can be allotted to Bozeman, Montana, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (45–40–24 N. and 110–52–02 W.). As requested, we propose to allot DTV Channel *8 to Bozeman with a power of 160.0 and a height above average terrain (HAAT) of 305 meters. However, since the community of Bozeman is located within 400 kilometers of the U.S.-Canadian border, concurrence by the Canadian government must be obtained for this proposal.

**DATES:** Comments must be filed on or before September 17, 2001, and reply comments on or before October 2, 2001.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Room TW A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Scott Patrick, Dow, Lohnes & Albertson, 1200 New Hampshire Avenue, NW., Suite 800, Washington, DC 20036–6802.

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–163, adopted July 24, 2001, and released July 27, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Television, Digital television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

## PART 73—TELEVISION BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, and 336.

**§ 73.622 [Amended]**

2. Section 73.622(b), the Table of Digital Television Allotments under Montana is amended by removing DTV Channel *20 and adding DTV Channel *8 at Bozeman.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Services Division, Mass Media Bureau.*

[FR Doc. 01–19145 Filed 7–31–01; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 01–1768, MM Docket No. 01–162, RM–10183]**

### Digital Television Broadcast Service; Cocoa, FL

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Good Like Broadcasting, Inc. licensee of station WTGL–TV, NTSC channel 52, Cocoa, Florida, requesting the substitution of DTV 53 for DTV channel 51. DTV channel 53c can be allotted to Cocoa, Florida, in compliance with the principal community coverage requirements of § 73.625(a) at reference coordinates (28–35–12 N. and 81–04–58 W.). As requested, we propose to allot DTV Channel 53c to Cocoa with a power of 13.0 and a height above average terrain (HAAT) of 514 meters.

**DATES:** Comments must be filed on or before September 17, 2001, and reply comments on or before October 2, 2001.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Sally A. Buckman, Leventhal, Senter & Lerman PLLC, Suite 600, 2000 K Street, NW, Washington, DC 20006–1809 (Counsel for Good Life Broadcasting, Inc.).

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–162, adopted July 24, 2001, and released July 27, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Television, Digital television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

## PART 73—TELEVISION BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, and 336.

**§ 73.622 [Amended]**

2. Section 73.622(b), the Table of Digital Television Allotments under Florida is amended by removing DTV Channel 51 and adding DTV Channel 53c at Cocoa.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Services Division, Mass Media Bureau.*

[FR Doc. 01–19144 Filed 7–31–01; 8:45 am]

**BILLING CODE 6712–01–U**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 01–1767, MM Docket No. 01–161, RM–10181]**

### Digital Television Broadcast Service; Victoria, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Surtsey Productions, Inc., licensee of station KVCT–TV, Victoria, Texas, requesting the substitution of DTV channel 11 for station KVCT–TV's assigned DTV channel 34. DTV Channel 11 can be allotted to Victoria, Texas, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (28–50–26 N. and 97–07–47 W.). As requested, we propose to allot DTV Channel 11 to Victoria with a power of 18.0 and a height above average terrain (HAAT) of 311 meters. However, since the community of Victoria is located within 275 kilometers of the U.S.-Mexican border, concurrence by the Mexican government must be obtained for this allotment.

**DATES:** Comments must be filed on or before September 17, 2001, and reply comments on or before October 2, 2001.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Harry F. Cole, Bechtel & Cole, 1901 L Street, NW., Suite 250, Washington, DC 20036 (Counsel for Surtsey Productions, Inc.).

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–161, adopted July 24, 2001, and released July 27, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Television, Digital television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

## PART 73—TELEVISION BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, and 336.

**§ 73.622 [Amended]**

2. Section 73.622(b), the Table of Digital Television Allotments under Texas is amended by removing DTV Channel 34 and adding DTV Channel 11 at Victoria.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Services Division, Mass Media Bureau.*

[FR Doc. 01–19143 Filed 7–31–01; 8:45 am]

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# Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Big Hole Timber Sale; Caribou-Targhee National Forest, Teton County, ID

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare environmental impact statement.

**SUMMARY:** The U.S. Department of Agriculture, Forest Service will prepare an environmental impact statement (EIS) to document the analysis and disclose the environmental impacts of a proposed timber sale and road reconstruction on the east side of the Big Hole Mountains.

The Teton Basin Ranger District is proposing to cut timber and reconstruct five roads on the east side of the Big Hole Mountain. A portion of this proposal is in the Garns Mountain Roadless Area. The proposed timber sale would remove small diameter and disease infested Douglas fir, lodgepole pine and subalpine fir in areas north of Packsaddle Creek, and between Henderson and Grove Creeks. Conifers would be removed from aspen and mature aspen would be cut to regenerate seedlings. This would be done to decrease fuel loads, provide products to the public and increase resiliency across the forested vegetation. Road reconstruction would occur on Forest classified roads 508, 543, 544, 546 and 237. This would reduce impacts of roads to streams and fisheries.

**DATES:** Written comments concerning the scope of the analysis described in this analysis should be received by September 17, 2001.

**ADDRESSES:** Send written comments to Teton Basin Ranger District, Attn: Liz Davy, P.O. Box 777, Driggs, ID 83422.

**FOR FURTHER INFORMATION CONTACT:** Questions concerning the proposed action and EIS should be directed to Liz Davy, Teton Basin Ranger District, Caribou-Targhee National Forest, phone: (208) 354–2312.

**SUPPLEMENTARY INFORMATION:** A watershed analysis determined desired future conditions (DFC) for forested vegetation and roads. The DFC for forested vegetation is to maintain conifers within seral stages of 20 percent seedling/sapling/grass and 80 percent young to old forest. Aspen would be maintained with a diversity of age classes at levels of 10 to 30 percent seedling/sapling/brush, 10 to 30 percent young vegetation, 20 to 40 percent mature forest and 20 to 40 percent old forest. Currently seral stages of conifers are 3 percent seedling and 97 percent young to old forest. Aspen's current seral stages are 1 percent seedling and 99 percent mature to old forest. This proposal would move the trend in forested vegetation closer to DFC.

The DFC for roads is to minimize requirements for maintenance and construction. Re-engineering the five roads would allow for future maintenance and decrease sediment input to cutthroat trout streams.

The decision to be made is whether to cut the timber and if so, where and under what conditions. The decision would also consider whether to reconstruct the classified roads. Public scoping will be completed through letters and news releases.

Preliminary issues identified are:

(1) Impacts of road reconstruction and timber cutting on roadless characteristics.

(2) Impacts on wildlife in the timber sale areas.

(3) Impacts on water quality and fisheries in the timber sale areas.

(4) The effects on threatened, endangered and sensitive species from removing mature forest vegetation and reconstructing roads.

(5) The effects on old growth from removal of mature timber.

Other issues may be identified during the scooping period. Written suggestions and comments are invited on the issues related to the proposal and the area being analyzed. Information received will be used in the preparation of the Draft EIS and Final EIS. For most effective use, comments should be submitted to the Forest Service within 45 days from the date of publication of this notice in the **Federal Register.**

The Forest Service is the lead agency. The Forest Service estimates the draft EIS will be filed in May 2002 and the final EIS will be filed in September 2002. The Responsible Official is Jerry B. Reese, Forest Supervisor, Caribou-Targhee National Forest.

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered: however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR parts 215 or 217. Additionally, pursuant to 7 CFR 1.27 (d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that under the FOIA, confidentiality may be granted in only very limited circumstances such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 10 days.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register.** It is very important that those interested in this proposed action participate at this time. To be most helpful, comments on the draft environmental impact statement should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed. (See the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal court decisions have established that reviews of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553

(1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel,* (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections area made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final.

Dated: July 23, 2001.

**Jerry B. Reese,**

*Forest Supervisor.*

[FR Doc. 01–19152 Filed 7–31–01; 8:45 am]

**BILLING CODE 3410–11–M**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[Docket 33–2001]**

### Foreign-Trade Zone 40—Cleveland, OH, Area Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board), by the Cleveland-Cuyahoga County Port Authority, grantee of Foreign-Trade Zone 40, requesting authority to expand its zone in the Cleveland, Ohio, area, within the Cleveland Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on July 24, 2001.

FTZ 40 was approved on September 29, 1978 (Board Order 135, 43 FR 46886, 10/11/78) and expanded in June 1982 (Board Order 194, 47 FR 27579, 6/25/82); April 1992 (Board Order 574, 57 FR 13694, 4/17/92); February 1997 (Board Order 870, 62 FR 7750, 2/20/97; and, June 1999 (Board Order 1040, 64 FR 33242, 6/22/99). The general-purpose zone project currently consists of the following sites in the Cleveland, Ohio, area: *Site 1* (94 acres)—Port of Cleveland complex on Lake Erie at the mouth of the Cuyahoga River, Cleveland; *Site 2* (175 acres)—the IX Center (formerly the ''Cleveland Tank Plant''), in Brook Park, adjacent to the Cleveland Hopkins International Airport; *Site 3* (1,900 acres)—Cleveland Hopkins International Airport complex; *Site 4* (450 acres)—Burke Lakefront Airport, 1501 North Marginal Road, Cleveland; *Site 5* (276 acres)—Emerald Valley Business Park, Cochran Road and Beaver Meadow Parkway,Glenwillow; *Site 6* (30 acres)—Collinwood site, South Waterloo (South Marginal) Road and East 152nd Street, Cleveland; *Site 7* (47 acres)—Water Tower Industrial Park, Coit Road and East 140th Street, Cleveland; *Site 8* (83 acres)—Strongsville Industrial Park, Royalton Road (State Route 82), Strongsville; and, *Temporary Site 9* (13 acres)—East 40th Street between Kelley & Perkins Avenues (3830 Kelley Avenue), Cleveland.

The applicant is now requesting authority to expand the general-purpose zone to include on a permanent basis the area within *Temporary Site 9* (expires 12/31/02) and to include an additional site—Proposed Site 10. *Temporary Site 9,* owned by the PUBCO Corporation, involves an inner-city business park. *Proposed Site 10* (15 acres)—involves the Frane Properties Industrial Park, 2399 Forman Road, Morgan Township, Ashtabula County. The site served as a former ammunitions manufacturing and distribution facilities of the Smith & Wesson Corporation and is being developed as a business park/campus FTZ. The site is owned by Frane Properties LLC. The application also includes a request to restore 22 acres at *Site 5* (new total 298). No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is October 1, 2001. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to October 15, 2001).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations: U.S. Department of Commerce, International Trade Administration, Export Assistance Center, 600 Superior Avenue, East, Suite 700, Cleveland, OH 44114; Office of the Executive Secretary, Foreign-Trade Zones Board, Room 4008, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: July 25, 2001.

**Dennis Puccinelli,**

*Executive Secretary.*

[FR Doc. 01–19207 Filed 7–31–01; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

### Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 351.213 (2000) of the Department of Commerce (the Department) Regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

*Opportunity To Request a Review*

Not later than the last day of August 2001, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in August for the following periods:

| | Period |
|---|---|
| **Antidumping Duty Proceeding** | |
| Argentina: | |
| Oil Country Tubular Goods A–357–810 | 8/1/00–7/31/01 |
| Seamless Line and Pressure Pipe A–357–809 | 8/1/00–7/31/01 |
| Australia: Corrosion-Resistant Carbon Steel Flat Products A–602–803 | 8/1/00–7/31/01 |

| | Period |
|---|---|
| Belgium: Cut-to-Length Carbon Steel Plate A–423–805 | 8/1/00–7/31/01 |
| Brazil: | |
| Cut-to-Length Carbon Steel Plate A–351–817 | 8/1/00–7/31/01 |
| Seamless Line and Pressure Pipe A–351–826 | 8/1/00–7/31/01 |
| Canada: | |
| Corrosion-Resistant Carbon Steel Flat Products A–122–822 | 8/1/00–7/31/01 |
| Pure Magnesium A–122–814 | 8/1/00–7/31/01 |
| Czech Republic: Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Under 4½ Inches) A–851–802 | 2/4/00–7/31/01 |
| Finland: Cut-to-Length Carbon Steel Plate A–405–802 | 8/1/00–7/31/01 |
| France: | |
| Corrosion-Resistant Carbon Steel Flat Products A–427–808 | 8/1/00–7/31/01 |
| Industrial Nitrocellulose A–427–009 | 8/1/00–7/31/01 |
| Germany: | |
| Corrosion-Resistant Carbon Steel Flat Products A–428–815 | 8/1/00–7/31/01 |
| Cut-to-Length Carbon Steel Plate A–428–816 | 8/1/00–7/31/01 |
| Seamless Line and Pressure Pipe A–428–820 | 8/1/00–7/31/01 |
| Italy: | |
| Grain Oriented Electrical Steel A–475–811 | 8/1/00–7/31/01 |
| Oil Country Tubular Goods A–475–816 | 8/1/00–7/31/01 |
| Granular Polytetrafluoroethylene Resin A–475–703 | 8/1/00–7/31/01 |
| Seamless Line and Pressure Pipe A–475–814 | 8/1/00–8/2/00 |
| Japan: | |
| Brass Sheet & Strip A–588–704 | 8/1/00–7/31/01 |
| Corrosion-Resistant Carbon Steel Flat Products A–588–824 | 8/1/00–7/31/01 |
| Oil Country Tubular Goods A–588–835 | 8/1/00–7/31/01 |
| Granular Polytetrafluoroethylene Resin A–588–707 | 8/1/00–7/31/01 |
| Tin Mill Products A–588-854 | 4/12/00–7/31/01 |
| Mexico: | |
| Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Over 4½ Inches) A–201–827 | 2/4/00–7/31/01 |
| Gray Portland Cement and Cement Clinker A–201–802 | 8/1/00–7/31/01 |
| Cut-to-Length Carbon Steel Plate A–201–809 | 8/1/00–7/31/01 |
| Oil Country Tubular Goods A–201–817 | 8/1/00–7/31/01 |
| Poland: Cut-to-Length Carbon Steel Plate A–455–802 | 8/1/00–7/31/01 |
| Republic of Korea: | |
| Corrosion-Resistant Carbon Steel Flat Products A–580–816 | 8/1/00–7/31/01 |
| Oil Country Tubular Goods A–580–825 | 8/1/00–7/31/01 |
| Structural Steel Beams A–580–841 | 2/11/00–7/31/01 |
| Romania: | |
| Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Under 4½ Inches) A–485–805 | 2/4/00–7/31/01 |
| Cut-to-Length Carbon Steel Plate A–485–803 | 8/1/00–7/31/01 |
| Spain: Cut-to-Length Carbon Steel Plate A–469–803 | 8/1/00–7/31/01 |
| Sweden: Cut-to-Length Carbon Steel Plate A–401–805 | 8/1/00–7/31/01 |
| The People's Republic of China: | |
| Petroleum Wax Candles A–570–504 | 8/1/00–7/31/01 |
| Sulfanilic Acid A–570–815 | 8/1/00–7/31/01 |
| The United Kingdom: Cut-to-Length Carbon Steel Plate A–412–814 | 8/1/00–7/31/01 |
| Turkey:. | |
| Aspirin A–489–602 | 8/1/00–7/31/01 |
| **Countervailing Duty Proceedings** | |
| Belgium:. | |
| Cut-to-Length Carbon Steel Plate C–423–806 | 1/1/00–12/31/00 |
| Brazil: Cut-to-Length Carbon Steel Plate C–351–818 | 1/1/00–12/31/00 |
| Canada: | |
| Pure Magnesium C–122–815 | 1/1/00–12/31/00 |
| Alloy Magnesium C–122–815 | 1/1/00–12/31/00 |
| France: | |
| Corrosion-Resistant Carbon Steel C–427–810 | 1/1/00–12/31/00 |
| Stainless Steel Sheet and Strip in Coils C–427–815 | 1/1/00–12/31/00 |
| Germany: | |
| Corrosion-Resistant Carbon Steel C–428–817 | 1/1/00–12/31/00 |
| Cut-to-Length Carbon Steel Plate C–428–817 | 1/1/00–12/31/00 |
| Italy: | |
| Seamless Line and Pressure Pipe C–475–815 | 1/1/00–8/7/00 |
| Oil Country Tubular Goods C–475–817 | 1/1/00–12/31/00 |
| Stainless Steel Sheet and Strip in Coils C–425–825 | 1/1/00–12/31/00 |
| Mexico: Cut-to-Length Carbon Steel Plate C–201–810 | 1/1/00–12/31/00 |
| Republic of Korea: | |
| Corrosion-Resistant Carbon Steel Plate C–580–818 | 1/1/00–12/31/00 |
| Stainless Steel Sheet and Strip in Coils C–580–835 | 1/1/00–12/31/00 |
| Structural Steel Beams C–580–841 | 1/1/00–12/31/00 |
| Spain: Cut-to-Length Carbon Steel Plate C–469–804 | 1/1/00–12/31/00 |
| Sweden: Cut-to-Length Carbon Steel Plate C–401–804 | 1/1/00–12/31/00 |
| United Kingdom: Cut-to-Length Carbon Steel Plate C–412–815 | 1/1/00–12/31/00 |

**Suspension Agreements**

None.

In accordance with section 351.213(b) of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(l)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of August 2001. If the Department does not receive, by the last day of August 2001, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: July 25, 2001.

**Holly A. Kuga,**

*Senior Office Director, Group II, Office 4, AD/CVD Enforcement.*

[FR Doc. 01–19208 Filed 7–31–01; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Notice of Initiation of Five-Year (''Sunset'') Reviews

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of initiation of five-year (''sunset'') reviews.

**SUMMARY:** In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating five-year (''sunset'') reviews of the antidumping duty orders listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notices of *Institution of Five-Year Reviews* covering these same orders.

**FOR FURTHER INFORMATION CONTACT:** James P. Maeder or Martha V. Douthit, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, at (202) 482–3330 or (202) 482–5050, respectively, or Vera Libeau, Office of Investigations, U.S. International Trade Commission, at (202) 205–3176.

**SUPPLEMENTARY INFORMATION:**

**The Applicable Statue**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the ''Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''Department'') regulations are to 19 CFR part 351 (2001). Pursuant to sections 751(c) and 752 of the Act, an antidumping (''AD'') or countervailing duty (''CVD'') order will be revoked, or the suspended investigation will be terminated, unless revocation or termination would be likely to lead to continuation or recurrence of (1) dumping or a countervailable subsidy, and (2) material injury to the domestic industry.

The Department's procedures for the conduct of sunset reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

**Background**

*Initiation of Reviews*

In accordance with 19 CFR 351.218 we are initiating sunset reviews of the following antidumping duty orders:

| DOC case no. | ITC case no. | Country | Product |
|---|---|---|---|
| A–588–837 | TA–737 | Japan | Large Newspaper Printing Presses & Components. |
| A–428–821 | TA–746 | Germany | Large Newspaper Printing Presses & Components. |

*Filing Information*

As a courtesy, we are making information related to sunset proceedings, including copies of the *Sunset Regulations* (19 CFR 351.218) and *Sunset Policy Bulletin*, the Department's schedule of sunset reviews, case history information (*i.e.,* previous margins, duty absorption determinations, scope language, import volumes), and service lists, available to the public on the Department's sunset Internet website at the following address: http://ia.ita.doc.gov/sunset.

All submissions in these sunset reviews must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303. Also, we suggest that parties check the Department's sunset website for any updates to the service list before filing any submissions. The Department will

make additions to and/or deletions from the service list provided on the sunset website based on notifications from parties and participation in this review. Specifically, the Department will delete from the service list all parties that do not submit a substantive response to the notice of initiation.

Because deadlines in a sunset review are, in many instances, very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

*Information Required From Interested Parties*

Domestic interested parties (defined in 19 CFR 351.102) wishing to participate in these sunset reviews must respond not later than 15 days after the date of publication in the **Federal Register** of the notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). We note that the Department considers each of the orders listed above as separate and distinct orders and, therefore, requires order-specific submissions. In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in the sunset review must file substantive responses not later than 30 days after the date of publication in the **Federal Register** of the notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for foreign and domestic parties. Also, note that the Department's information requirements are distinct from the International Trade Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of sunset reviews.[1] Please consult the Department's regulations at 19 CFR Part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: July 26, 2001.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

[FR Doc. 01–19205 Filed 7–31–01; 8:45 am]

**BILLING CODE 3510–DS–P**

[1] A number of parties commented that these interim-final regulations provided insufficient time for rebuttals to substantive responses to a notice of initiation, 19 CFR 351.218(d)(4)). As provided in 19 CFR 351.302(b), the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–827]**

## Certain Cased Pencils From the People's Republic of China: Initiation of Antidumping New Shipper Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Initiation of Antidumping New Shipper Review.

**SUMMARY:** The Department of Commerce (''the Department'') has received a request from exporter Wuxi Andi Civilization PE Gift Give Away Co., Ltd., and importer Safety Touch & Javithon Inc., (collectively ''Wuxi''), to conduct a new shipper review of the antidumping duty order on certain cased pencils from the People's Republic of China (''PRC''), produced by Shanghai Anli Stationary Sporting Goods Co., Ltd. (''Anfong''). In accordance with 19 CFR 351.214(d) of the Department's regulations, we are initiating this new shipper review.

**EFFECTIVE DATE:** August 1, 2001.

**FOR FURTHER INFORMATION CONTACT:** Paul Stolz or Howard Smith, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4474 or (202) 482–5193 respectively.

### The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, codified at 19 CFR Part 351 (2001).

### Background

On May 31, 2001 the Department received a request, in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214(c), for a new shipper review of the antidumping duty order on certain cased pencils.

Pursuant to 19 CFR 351.214(b)(2)(ii) and 19 CFR 351.214(b)(2)(iii)(A), Wuxi's May 31, 2001 request for review included certifications from both Wuxi and Anfong that they did not export the subject merchandise to the United States during the period of investigation (''POI'') and that neither of them is affiliated with any company which exported subject merchandise to the United States during the POI. Wuxi also provided such certification pursuant to 19 CFR 351.214(b)(2)(i), in the event that the Department considers Wuxi to be the producer as well as the exporter. In addition, pursuant to 19 CFR 351.214(b)(2)(iii)(B), Wuxi's request certified that its export activities are not controlled by the central government of the PRC.

In addition, pursuant to 19 CFR 351.214(b)(2)(iv), Wuxi's request contained documentation establishing: the date after the POI on which Wuxi first shipped the subject merchandise for export to the United States, the volume of that and subsequent shipments, and the date of the first sale to an unaffiliated customer in the United States.

It is the Department's usual practice in cases involving non-market economies to require that a company seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate provide de jure and de facto evidence of an absence of government control over the company's export activities. *See Certain Preserved Mushrooms from the People's Republic of China: Initiation of New Shipper Antidumping Duty Review,* 65 FR 17257 (March 31, 2000). Accordingly, we will issue a separate rates questionnaire to the above-named respondent. If the respondent provides sufficient evidence that it is not subject to either de jure or de facto government control with respect to its exports of certain cased pencils, this review will proceed. If, on the other hand, Wuxi does not meet its burden to demonstrate its eligibility for a separate rate, then Wuxi will be deemed to be affiliated with other companies that exported during the POI. This review will then be terminated due

to failure of the exporter or producer to meet the requirements of section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(B).

**Initiation of Review**

The antidumping duty order on certain cased pencils from the PRC has a December anniversary month. *See Antidumping Duty Order: Certain Cased Pencils From the People's Republic of China,* 59 FR 66909 (December 28, 1994). The Department received Wuxi's request for review on May 31, 2001. The Department's regulations provide that it will initiate a new shipper review in the calendar month immediately following the semiannual anniversary month (*i.e.,* June), if the request for the review is made during the six-month period (*i.e.,* January—June) ending with the end of the semiannual anniversary month. *See* 19 CFR 351.214(d)(1).

In accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214(d), we are initiating a new shipper review of the antidumping duty order on certain cased pencils from the PRC. We intend to issue the preliminary results of this review not later than 180 days after the date on which the review is initiated.

Pursuant to 19 CFR 351.214(g)(1)(i)(A) of the Department's regulations, the period of review (''POR'') for a new shipper review initiated in the month immediately following the semiannual anniversary month will be the six-month period immediately preceding the semiannual anniversary month (*i.e.,* December–May). Therefore, the POR for this new shipper is:

| Antidumping duty proceeding | Period to be reviewed |
|---|---|
| Certain Cased Pencils from the PRC, A–570–827: Wuxi Andi Civilization PE Gift give Away Co., Ltd. ..... | 12/1/00–5/31/01 |

Concurrent with the publication of this initiation notice, and in accordance with 19 CFR 351.214(e), effective on the date of publication of this notice, we will instruct the U.S. Customs Service to suspend liquidation of unliquidated entries of subject merchandise from the above company and allow, at the option of the importer, the posting of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by the company listed above, until the completion of the review.

Interested parties may submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.214.

Dated: July 24, 2001.

**Bernard T. Carreau,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 01–19204 Filed 7–31–01; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–803]**

### Notice of Preliminary Results of Antidumping Duty New Shipper Review: Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** In response to a timely request from Shandong Jinma Industrial Group Co., Ltd. (Jinma), on October 6, 2000, the Department of Commerce (the Department) published a notice of initiation of a new shipper review of the antidumping duty order on heavy forged hand tools, finished or unfinished, with or without handles (HFHTs) from the People's Republic of China (PRC) with respect to the above-mentioned exporter. The period of review is February 1, 2000, through July 31, 2000 (POR).

We preliminarily determine that sales of HFHTs, from the PRC, have been made below normal value. The preliminary results are listed below in ''Preliminary Results of Review.''

We invite interested parties to comment on these preliminary results. Parties who submit arguments in this proceeding are requested to submit with their arguments (1) a statement of the issue(s), and (2) a brief summary of the arguments. Further, we would appreciate it if parties submitting comments would provide the Department with an additional copy of the public version of any such comments on diskette.

**EFFECTIVE DATE:** August 1, 2001.

**FOR FURTHER INFORMATION CONTACT:** Jeff Pedersen at (202) 482–4195 or Ron Trentham at (202) 482–6320; AD/CVD Enforcement, Office 4, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

**The Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the statute are references to the provisions as of January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department regulations refer to the regulations codified at 19 CFR part 351 (2000).

*Case History*

On February 19, 1991, the Department published in the **Federal Register** (56 FR 6622) the antidumping duty orders on HFHTs from the PRC. On July 20, 2000, the Department received a timely request, in accordance with section 751(a)(2)(B) of the Act and section 351.214(c) of the Department's regulations, from Jinma to conduct a new shipper review of the antidumping duty order on hammers/sledges, one of the four classes or kinds of subject merchandise covered by the antidumping duty orders on HFHTs from the PRC. The order has a February anniversary month and an August semiannual anniversary month. This request was made pursuant to section 751(a)(2)(B) of the Act and section 351.214(b) of the Department's regulations, which state that, if the Department receives a request for review from an exporter or producer of the subject merchandise stating that it did not export the merchandise to the United States during the period covered by the original investigation (POI) and that such exporter or producer is not affiliated with any exporter or producer who exported the subject merchandise during that period, the Department shall conduct a new shipper review to establish an individual weighted-average dumping margin for such exporter or producer, if the Department has not previously established such a margin for the exporter or producer.

The regulations require that the exporter or producer include in its request, with appropriate certifications: (i) The date on which the merchandise was first entered, or withdrawn from warehouse, for consumption, or, if it cannot certify as to the date of first

entry, the date on which it first shipped the merchandise for export to the United States, or if the merchandise has not yet been shipped or entered, the date of sale; (ii) a list of the firms with which it is affiliated; (iii) a statement from such exporter or producer, and from each affiliated firm, that it did not, under its current or a former name, export the merchandise during the POI; and (iv) in an antidumping proceeding involving inputs from a non-market-economy (NME) country, a certification that the export activities of such exporter or producer are not controlled by the central government. *See* 351.214(b)(2) of the Department's Regulations.

The request received from Jinma was accompanied by information and certifications establishing the effective date on which Jinma first shipped and entered HFHTs for consumption in the United States, the volume of the shipment, and the date of first sale to an unaffiliated customer in the United States. Jinma certified that it was not affiliated with any company which exported HFHTs from the PRC during the POI. In addition, Jinma certified that its export activities are not controlled by the central government. On October 6, 2000, the Department published its initiation of this new shipper review for the period February 1, 2000 through July 31, 2000. *See Heavy Forged Hand Tools From the People's Republic of China: Initiation of New-Shipper Antidumping Administrative Review*, FR 59824 (October 6, 2000).

On March 26, 2001, the Department published an extension of the deadline for completion of the preliminary results of this new shipper review until July 25, 2001. *See Notice of Extension of Time Limit for Preliminary Results of New Shipper Antidumping Review: Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles From the People's Republic of China*, 66 FR 16444 (March 26, 2001).

*Scope of Review*

HFHTs from the PRC comprise the following classes or kinds of merchandise: (1) hammers and sledges with heads over 1.5 kg (3.33 pounds) (hammers/sledges); (2) bars over 18 inches in length, track tools and wedges (bars/wedges); (3) picks/mattocks; and (4) axes/adzes. This review covers shipments of one class or kind of merchandise, hammers and sledges with heads over 1.5 kg (3.33 pounds).

HFHTs include heads for drilling, hammers, sledges, axes, mauls, picks, and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and tampers; and steel wood splitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot-blasting, grinding, polishing and painting, and the insertion of handles for handled products. HFHTs are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded are hammers and sledges with heads 1.5 kg (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under. Although the HTS subheadings are provided for convenience and Customs purposes, our written description of the scope of these orders is dispositive.

**New Shipper**

Based on the questionnaire responses received from Jinma, we preliminarily determine that Jinma met the requirements to qualify as a new shipper during the POR. We have determined that Jinma made its first sale or shipment of subject merchandise to the United States during the POR, that its sales were bona fide sales, and that Jinma was not affiliated with any exporter or producer that previously shipped to the United States.

*Separate Rates*

Jinma requested a separate, company-specific rate. In its questionnaire responses, Jinma states that it is an independent legal entity. To establish whether a company operating in an NME country is entitled to a separate rate, the Department analyzes an exporting entity under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), as amplified by, *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994). Under this policy, exporters in NMEs are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to export activities. Evidence supporting, though not requiring, a finding of de jure absence of government control over export activities includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *De facto* absence of government control over exports is based on four factors: (1) Whether the exporter sets its own export prices independently of the government and without the approval of a government authority; (2) whether the exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether the exporter has the authority to negotiate and sign contracts and other agreements; and (4) whether the exporter has autonomy from the government regarding the selection of management.

*De jure Control*

With respect to the absence of de jure government control over the export activities of Jinma, evidence on the record indicates that Jinma is not controlled by the government. Jinma submitted evidence of its legal right to set prices independent of all government oversight. The business license of Jinma indicates that it is permitted to engage in the exportation of tools and its export license grants Jinma permission to export ''self produced sledge hammer, storing hammer, crosspein sledge hammer * * * and varies of forged part, casting part [sic] * * *'' No export quotas apply to HFHTs. Prior verifications in this proceeding of other Chinese companies producing HFHTs covered by this case have confirmed that there are no commodity-specific export licenses required and these previous reviews and investigations have found no evidence of quotas for HFHTs established by the Chinese government. Jinma's business license categorizes it as a limited company, which places Jinma under the company law of the PRC, as stated under chapter 1, article 2 of The Company Law of the People's Republic of China. Further, PRC company law at Chapter 1, article 5 provides that a company ''shall use all of the resources to which it is entitled as a legal entity to achieve autonomy of company management and company accountability for its own profits and losses in accordance with law.'' We find no evidence of *de jure* government control restricting Jinma from the exportation of HFHTs. We therefore preliminarily determine that there is an

absence of de jure control over export activity with respect to Jinma.

*De Facto Control*

With respect to the absence of *de facto* control over export activities, the information provided indicates that the management of Jinma is responsible for the determination of export prices, profit distribution, marketing strategy, and contract negotiations. We found no evidence of government involvement in the daily operations or the selection of management of Jinma. In addition, we have found that Jinma's pricing and export strategy decisions are not subject to any outside entity's review or approval, and that there are no governmental policy directives that affect these decisions.

We found no evidence of restrictions on the use of export earnings. Jinma's sales department manager and senior company officials have the right to negotiate and enter into contracts binding the company to sell merchandise. There is no evidence that this authority is subject to governmental approval. Jinma has stated that its directors are selected by the shareholders of Jinma and that the directors appoint the officers and managers of each department and that there is no government involvement in the selection process. Consequently, because evidence on the record indicates an absence of government control, both in law and in fact, over their export activities, we preliminarily determine that separate rates should be applied to Jinma.

*Export Price*

In accordance with section 772(a) of the Act, the Department calculated an EP for sales to the United States because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and the use of constructed export price was not otherwise warranted. We made deductions from the selling price to unaffiliated parties for foreign brokerage and handling and foreign inland freight. Each of these services were provided by an NME vendor. Thus, we based the deduction for these movement charges on surrogate values (*see* the discussion regarding companies located in NME countries and the Department's selection of a surrogate country in the *Normal Value* section of this notice).

For brokerage and handling, we used price quotes from two Indian freight forwarders in November 1999, and adjusted them for inflation. The sources used to value foreign inland freight are identified below in the *Normal Value* section of this notice.

To account for inflation or deflation between the time period that the foreign brokerage and handling and foreign inland freight rates were in effect and the POR, we adjusted the rates using the wholesale price indices (WPI) for India as published in the International Monetary Fund's (IMF) publication, *International Financial Statistics.* For further discussion of the surrogate values used in this review, *see* Memorandum From the Team Regarding Surrogate Values Used for the Preliminary Results of the New Shipper Review of Certain Heavy Forged Hand Tools From the People's Republic of China, (July 25, 2001), (Surrogate Value Memorandum), which is on file in the Central Records Unit (room B099 of the Main Commerce Building).

*Normal Value*

For exports from NMEs, section 773(c)(1) of the Act provides that the Department shall determine NV using a factors of production (FOP) methodology if (1) the subject merchandise is exported from an NME country, and (2) available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value. Section 351.408 of the Department's regulations sets forth the Department's methodology for calculating the NV of merchandise from NME countries. In every case conducted by the Department involving the PRC, the PRC has been treated as an NME. Since none of the parties to these proceedings contested such treatment in this review, we calculated NV in accordance with section 773(c) of the Act and section 351.408 of the Department's regulations.

In accordance with section 773(c)(3) of the Act, the FOP utilized in producing HFHTs include, but are not limited to: (A) hours of labor required; (B) quantities of raw materials employed; (C) amounts of energy and other utilities consumed; and (D) representative capital costs, including depreciation. In accordance with section 773(c)(4) of the Act, the Department valued the FOP, to the extent possible, using the costs of the FOP in a market economy that is (A) at a level of economic development comparable to the PRC, and (B) a significant producer of comparable merchandise. We determined that India is comparable to the PRC in terms of per capita gross national product, the growth rate in per capita income, and the national distribution of labor. Furthermore, India is a significant producer of comparable merchandise. For further discussion of the Department's selection of India as the surrogate country, *see* the Memorandum from Jeff May, Director, Office of Policy, to Jeff Pedersen, AD/CVD Enforcement Group II, dated March 16, 2001, which is on file in the CRU-Public File.

In accordance with section 773(c)(1) of the Act, for purposes of calculating NV, when possible, we valued FOP using surrogate values that were in effect during the POR. Surrogate values that were in effect during periods other than the POR were adjusted, as appropriate, to account for price trends between the effective period and the POR. We made the adjustment, where appropriate, for all factor values, except labor, using the wholesale price indices for India that were reported in the IMF's publication, International Financial Statistics. We valued the FOP as follows:

(1) We valued direct materials used to produce HFHTs (i.e., steel scrap, paint, anti-rust oil, wood and resin glue) and the steel scrap generated from the production of HFHTs using the rupee per metric ton or rupee per kilogram value of imports that entered India during the POR as published in the Monthly Statistics of the Foreign Trade of India—Imports (Indian Import Statistics).

(2) We valued labor using a regression-based wage rate, in accordance with 19 CFR 351.408(c)(3). This rate is identified on the Import Administration's web site (www.ita.doc.gov/import_admin/records/).

(3) We derived ratios for factory overhead, selling, general and administrative (SG&A) expenses, and profit using information reported for 1992–1993 in the January 1997 Reserve Bank of India Bulletin. From this information, we were able to calculate factory overhead as a percentage of direct materials, labor, and energy expenses; SG&A expenses as a percentage of the total cost of manufacturing; and profit as a percentage of the sum of the total cost of manufacturing and SG&A expenses. Although this information is not contemporaneous with the POR, it is the most recent relevant data available. Moreover, as the SG&A values used are ratios rather than prices, price changes are not a concern.

(4) We valued packing materials, including cartons, pallets, iron straps, anti-damp paper, anti-rust paper, plastic strips, iron knots, tape and metal clips, using the rupee per metric ton or rupee per kilogram value of imports that entered India during the period February through July 2000 as

published in Indian Import Statistics. We valued hessian cloth (a packing material) using the rupee per kilogram value of imports that entered India during the period April through July 1998 as published in Indian Import Statistics.

(5) We valued coal using the price of steam coal in India in 1996 as reported in the International Energy Agency's publication, Energy Prices and Taxes, Second Quarter 1999 (EPT), the most recent data available.

(6) We valued electricity using the 1997 Indian electricity prices for industrial use as reported in EPT, the most recent data available.

(7) We used the following sources to value truck freight services incurred to transport direct materials, packing materials, and coal from the suppliers of the inputs to the factories producing HFHTs:

Truck Freight: If a respondent used its own trucks to transport material or subject merchandise, we valued freight services using the average cost of operating a truck, which we calculated from information published in *The Times of India* on April 24, 1994. Although this information is not contemporaneous with the POR, it is the most recent relevant data we could obtain. If a respondent did not use its own trucks or the respondent did not state that it used its own trucks, we valued freight services using price quotes obtained by the Department from Indian truck freight companies in November 1999.

The United States Court of Appeals for the Federal Circuit's (CAFC's) decision in Sigma Corp. v. United States, 117 F. 3d 1401 (CAFC 1997) requires that we revise our calculation of source-to-factory surrogate freight for those material inputs that are based on CIF import values in the surrogate country. Therefore, we have added to CIF surrogate values from India a surrogate inland freight cost based on the shorter of the reported distances from (1) the closest PRC port to the factory or (2) the domestic supplier to the factory, on an import-specific basis.

*Preliminary Results of Review*

As a result of our review, we preliminarily determine that the following margin exists for the period February 1, 2000 through July 31, 2000:

| Manufacturer/exporter | Time period | Margin (percent) |
|---|---|---|
| Shandong Jinma Industrial Group Co., Ltd.: Hammers/Sledges | 2/1/00–7/31/00 | 7.76 |

Any interested party may request a hearing in accordance with section 351.310(c) of the Department's regulations. Any hearing would normally be held 37 days after the publication of this notice, or the first workday thereafter, at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) to the extent practicable, an identification of the arguments to be raised at the hearing. Unless otherwise notified by the Department, interested parties may submit case briefs within 30 days of the date of publication of this notice in accordance with 351.309(c)(1)(ii) of the Department's regulations. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the case brief is filed. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

The Department will issue the final results of this new shipper review, which will include the results of its analysis of issues raised in the briefs, within 90 days from the date of these preliminary results, unless the time limit is extended.

Upon completion of this new shipper review, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the U.S. Customs Service upon completion of this review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the determination and for future deposits of estimated duties. For assessment purposes, we calculated an importer-specific assessment rate by dividing the total dumping margins (calculated as the difference between NV and EP) for the importer by the entered value of the examined sales for the importer. Where the importer-specific assessment rate is above *de minimis*, we will direct Customs to assess the resulting *ad valorem* rate against the entered value of the entry of the subject merchandise by that importer during the POR.

Furthermore, the following deposit rates will be effective upon publication of the final results of this review for all shipments of HFHTs from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the reviewed firm will be the rate established in the final results of this review; (2) for previously-reviewed PRC and non-PRC exporters with separate rates, the cash deposit rate will be the company-specific rate established for the most recent period; (3) for all other PRC exporters, the rate will be the PRC-wide rate; and (4) for all other non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter. These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This new shipper review and notice are issued and published in accordance with sections 751(a)(2)(f) and 777(i)(1) of the Act.

Dated: July 25, 2001.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

[FR Doc. 01–19203 Filed 7–31–01; 8:45 am]

**BILLING CODE 3510–DS–P**

## CONSUMER PRODUCT SAFETY COMMISSION

### Petition Requesting Rule Requiring Product Registration Cards for Products Intended for Children

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission has received a petition (CP 01–01) requesting that the Commission issue a rule requiring product registration cards accompany every product intended for use by children. The Commission solicits written comments concerning the petition.

**DATES:** The Office of the Secretary must receive comments on the petition by October 1, 2001.

**ADDRESSES:** Comments, preferably in five copies, on the petition should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 504–0800, or delivered to the Office of the Secretary, Room 501, 4330 East-West Highway, Bethesda, Maryland 20814. Comments may also be filed by telefacsimile to (301) 504–0127 or by email to cpsc-os@cpsc.gov. Comments should be captioned ''Petition CP 01–01, Petition for Product Registration Cards.'' A copy of the petition is available for inspection at the Commission's Public Reading Room, Room 419, 4330 East-West Highway, Bethesda, Maryland.

**FOR FURTHER INFORMATION CONTACT:** Rockelle Hammond, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0800, ext. 1232.

**SUPPLEMENTARY INFORMATION:** The Commission has received correspondence from the Consumer Federation of America (''CFA'') requesting that the Commission issue a rule ''requiring manufacturers (or distributors, retailers, or importers) of products intended for children provide along with every product a Consumer Registration Card that allows the purchaser to register information, through the mail or electronically.'' CFA also requested that the Commission issue rules requiring that (1) the remedy for recalls of products intended for children remain in effect indefinitely or as long as the affected company is in business and (2) identification information be permanently provided on every product intended for children. These requests have not been docketed as petitions at this time.

CFA requested that the Commission take action under section 10 of the Federal Hazardous Substances Act (''FHSA''), 15 U.S.C. 1269(a). However, the General Counsel believes that the more appropriate authority for product registration cards is section 16(b) of the Consumer Product Safety Act (''CPSA''), *id.* 2065(b), and has docketed the petition under that provision of the CPSA.

The petitioner states that a registration card system would improve the effectiveness of recalls because it would enable a manufacturer to contact the purchaser directly if a product were recalled or otherwise presented a safety hazard. CFA examined existing consumer warranty or registration cards included with some new products. CFA found that often these cards do not state that they could be used to provide notice of recalls, are primarily used to collect marketing and consumer data, rarely provide pre-paid postage, and generally do not protect consumer privacy.

The petitioner states that a Commission rule should require a system in which registration cards (1) collect only information needed to contact the purchaser (e.g., name and address or email address); (2) have the postage paid by the manufacturer (distributor, retailer, or importer); (3) provide the name and model number of the product purchased; and (4) state that the information collected will only be used to advise the purchaser of a recall or other important safety information. The petitioner asks that the rule require the manufacturer (or distributor, retailer, or importer) to maintain this information for a minimum of 20 years, or the useful life of the product, whichever is longer. CFA also asks that the rule require manufacturers (or distributors, retailers, or importers) provide reports to CPSC on the return rate of these cards.

Interested parties may obtain a copy of the petition by writing or calling the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0800. A copy of the petition is also available for inspection from 8:30 a.m. to 5 p.m., Monday through Friday, in the Commission's Public Reading Room, Room 419, 4330 East-West Highway, Bethesda, Maryland.

Dated: July 26, 2001.

**Todd Stevenson,**

*Acting Secretary, Consumer Product Safety Commission.*

[FR Doc. 01–19073 Filed 7–31–01; 8:45 am]

BILLING CODE 6355–01–P

## DEPARTMENT OF EDUCATION

### Submission for OMB Review; Comment Request

**AGENCY:** Department of Education.

**SUMMARY:** The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before August 31, 2001.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Lauren_Wittenberg@omb.eop.gov.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: July 26, 2001.

**John Tressler,**

*Leader, Regulatory Information Management, Office of the Chief Information Officer.*

### Office of Student Financial Assistance Programs

*Type of Review:* Extension.

*Title:* Notice Inviting Proposals for Participation in the Experimental Sites Initiative.

*Frequency:* One time.

*Affected Public:* Individuals or households; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

*Reporting and Recordkeeping Hour Burden:* Responses: 500 Burden Hours: 2,500.

*Abstract:* With this notice, the Secretary invites proposals to reinvent the administration of Federal student assistance programs through the use of the experimental sites authority (Section 487A(b)) of the Higher Education Act of 1965, as amended. The program is intended to encourage institutions to develop innovative strategies to improve Title IV program administration.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe.Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–19111 Filed 7–31–01; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

### National Nuclear Security Administration Advisory Committee; Meeting

**AGENCY:** National Nuclear Security Administration, Department of Energy.

**ACTION:** Notice of closed meeting.

**SUMMARY:** This notice announces a meeting of the National Nuclear Security Administration Advisory Committee (NNSA AC). The Federal Advisory Committee Act, 5 U.S.C. App. 2 10(a)(2) requires that public notice of these meetings be announced in the **Federal Register**.

**DATE:** Wednesday, August 15, 2001, 7 a.m. to 5 p.m.

**LOCATION:** Sandia National Laboratory, 1515 Eubank SE, Albuquerque, NM 87123.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Leonard (202–586–5555), Staff Director of NNSA AC.

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Committee:* To provide the Administrator of the National Nuclear Security Administration with advice and recommendations on matters of technology, policy, and operations that lie within the mission and responsibilities of the National Nuclear Security Administration.

*Purpose of the Meeting:* To discuss national security research, development, and policy programs.

*Meeting Agenda:* The basic agenda of the meeting is planned as follows: two hour discussion on work of Defense Programs Subcommittee, two hour discussion on work of Nonproliferation Subcommittee, two hour discussion of Committee's future plans. Extra time has been allotted for possible briefings.

*Closed Meeting:* In the interest of national security, the meeting will be closed to the public, pursuant to the Federal Advisory Committee Act, 5 U.S.C. App 2 section 10(d), and the Federal Advisory Committee Management Regulation, 41 CFR 101–6.1023, ''Procedures for Closing an Advisory Committee Meeting'', which incorporate by reference the Government in the Sunshine Act, 5 U.S.C. 552b, which, at sections 552b (c)(1) and (c)(3) permits closure of meetings where restricted data or other classified matters are discussed.

*Minutes:* Minutes of the meeting will be recorded and classified accordingly.

Issued at Washington, D.C. on July 26, 2001.

**Rachel M. Samuel,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 01–19127 Filed 7–31–01; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. IC01–721–000, FERC–721]**

### Proposed Information Collection and Request for Comments

July 26, 2001.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Request for Office of Management and Budget emergencyprocessing of proposed information collection and request for comments.

**SUMMARY:** In compliance with the requirements of section 3507(j)(1)of the Paperwork Reduction Act of 1995 (Pub. L. No.104–13), and 5 CFR 1320.13 of the Office of Management and Budget (OMB) regulations, the Federal Energy Regulatory (Commission) is providing notice of its request to OMB for emergency processing of a proposed collection of information in connection with the ''Order Imposing Reporting Requirement on Natural Gas Sales to California Market,'' issued in Docket No. RM01–9–000. The Commission is soliciting public comment on the specific aspects of the information collection described below.

**DATES:** The Commission and OMB must receive comments on or before August 1, 2001. Because the Commission has requested OMB to process the proposed collection of information in Docket No. IC01–721–000 on an emergency basis, comments on this collection of information should be filed with OMB, attention FERC Desk Officer, as soon as possible. The Commission is requesting that OMB make a determination on this information collection requirement by August 7, 2001.

**ADDRESSES:** FERC–721 responses should be filed with the Office of the Secretary (and should refer to Docket No. IC01–721–000), Federal Energy Regulatory Commission,888 First Street, NE., Washington, DC 20426.

**FOR FURTHER INFORMATION CONTACT:** Richard Howe, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–1274; Thomas Brownfield, Office of Markets Tariffs and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–0666.

**SUPPLEMENTARY INFORMATION:** This reporting requirement is intended to provide the Commission with the necessary information to determine what action if any, it should take within its jurisdiction, with respect to the price of natural gas sold in the California market. Specifically, the Commission wants to understand better how the California natural gas market functions in light of the fact that the price of natural gas in the California market has, for substantial periods been higher than the prices in other markets and trading hubs throughout the country. The Commission is also concerned about the operation of the California natural gas market since gas-fired generators in California help to establish the market

clearing price for electric generation pursuant to the bidding system used by the California Independent System Operator. The Commission intends to collect information on the volumes, and prices of sales to the California market including transportation rates, the daily operational capacity of pipelines to, and in the California market, and the actual volumes flowing to, and in California, plus gas sales and transportation requirements of local distribution companies.

The information is to assist the Commission in carrying out its regulatory responsibilities. First, it will help the Commission determine what part of the problem, if any, is within the scope of its jurisdiction. The information proposed to be collected will give the Commission an accurate picture of overall average gas costs being incurred by all purchasers of natural gas moving into the California market. The information to be collected will also enable the Commission to determine the extent to which the cost of interstate transportation, which is subject to the Commission's jurisdiction, affects the price for the gas commodity at the California border.

The Commission's need for this information is enhanced by the relationship of natural gas prices and the price for electric power. On June 19, 2001, the Commission issued an order involving price mitigation for the California power markets. In the mitigation plan, electric generators' price bids during reserve emergencies must reflect the marginal cost of obtaining natural gas used for generation. That number is derived by using an average of the midpoint of the monthly bid-week prices at certain reported California natural gas market price points. Thus, the price for electric power would be dependent, to some extent on the price of natural gas at certain California market points.

Accordingly, because the Commission requires the information as soon as possible, the Commission will require submission of the information on a monthly basis, to be submitted 30 days after the end of each month, for the six months commencing August 1, 2001 and ending January 31, 2002. The first report will be due October 1, 2001. The Commission in a separate action will request OMB approval to extend the reporting period to September 30, 2002, to coincide with the termination of the Commission's June 19, 2001 California electric power mitigation order.

The information will enable the Commission and its staff to carry out their regulatory responsibilities of determining the extent to which the high price of natural gas involves a matter over which the Commission has jurisdiction under the Natural Gas Act and what actions if any, the Commission should take within its jurisdiction.

**Background**

On May 18, 2001, the Commission issued an Order in Docket No. RM01–09–000 proposing reporting requirements for natural gas sales to and in the California market and requested comments on this proposal. The reporting requirements are in response to the fact, prices of natural gas in California rose dramatically and exceeded the increases in other markets. Several complaints have requested the Commission to take various actions as identified in the Order. In response to these complaints the Commission needs to determine what part of the problem, if any is within the scope of its jurisdiction and what actions within that jurisdiction would be appropriate. The information provided so far by complainant and intervening parties has not been adequate to make these determinations.

The Commission's statutory obligations contained in the Natural Gas Act are to regulate the transportation of natural gas by interstate pipelines, and Section 7 of the Natural Gas Act (NGA) also authorizes the Commission to issue certificates for the construction of new interstate pipelines. The Commission also has jurisdiction to regulate sales for resale of domestic gas by pipelines, LDCs, and their affiliates. These obligations authorize the Commission to ensure that the rates, terms and conditions of service for natural gas pipeline companies within the Commission's jurisdiction are just and reasonable. To enable the Commission to fulfill this duty, the NGA authorizes the Commission to conduct investigations of, and collect information. If after the investigation, the Commission is of the opinion that rates within its jurisdiction are ''unjust and unreasonable or unjustly discriminatory or unduly preferential,'' the Commission is authorized to determine and prescribe just and reasonable rates. The NGA also provides the Commission with the ability to consider the reasonableness of rates through settlement conferences or hearings.

**Information Collection Statement**

The Paperwork Reduction Act of 1995, 44 U.S.C. 3507, and Office of Management and Budget (OMB) implementing regulations at 5 CFR 1320.10 require OMB to approve certain reporting and recordkeeping requirements (collections of information) imposed by a federal agency. Upon approval of a collection of information, OMB will assign an OMB control number and an expiration date.

The proposed information collection request will be done under a temporary data collection, FERC–721, ''Reporting of Natural Gas Sales to the California Market'' (OMB Control No. to be assigned). The respondents will be natural gas pipelines, marketers and local distribution companies. Responses to the information collection request will be mandatory.

*Burden Statement:* Public reporting burden for this collection is estimated as:

| Number of respondents annually (1) | Number of responses per respondent (2) | Average burden hours per response (3) | Total annual burden hours (1)×(2)×(3) |
|---|---|---|---|
| 89 | *534 | 208 | 19,847 |

*Initial Reports: 178 Hours Per Respondent for data collection=15,842 hours 30 hours per respondent for utilizing Information technology=2,670 hours. Subsequent reports: 3 hrs. per respondent=1,335 hours.

*Estimated cost burdens to respondents:* The Commission estimates that it will cost each respondent $25,096 to respond to this information collection request for a total cost of $2,2334,570 (19,857 ÷ 2,080 hours × $117,041).

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable

instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professionals and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

*Comments are invited on:* (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology *e.g.* permitting electronic submission of responses.

For copies of the OMB submission, contact Michael Miller at (202) 208–1415. Interested persons may send comments regarding these burden estimates or any other aspect on the proposed information collection, including suggestions for reductions of burden, to the Desk Officer FERC, Office of Management and Budget, Room 10202 NEOB, Washington, DC 20503, phone (202) 395–7318 or by fax at (202) 395–7285. A copy of any comments filed with OMB should also be sent to Michael Miller, Office of the Chief Information Officer, CI–1, 888 First Street NE., Washington, DC 20426. Michael Miller may also be reached by fax at (202) 208–2425, and by e-mail at *mike.miller@ferc.fed.us.*

**Document Availability**

In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides interested persons an opportunity to inspect or copy contents of this document during normal business hours in the Public Reference Room at 888 First Street, NE., Room 2A, Washington, DC 20426. Additionally, comments may be viewed and printed remotely via the Internet through FERC's home page, *www.ferc.gov,* and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

The Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the Commission from November 14, 1994, to the present. CIPS can be accessed via the Internet through FERC's Home Page, *www.ferc.gov* and using the CIPS link or the Energy Information Online icon. Documents will be available on CIPS in ASCII and Word Perfect 6.1. User assistance is available at (202) 208–0874 or by E-mail to *cips.master@ferc.fed.us.*

This document is also available through the Commission's Records and Information Management System (RIMS), an electronic storage and retrieval system of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed. RIMS is available in the Public Reference Room or remotely via Internet through FERC's Homepage using the RIMS link or the Energy Information Online icon. User assistance is available at 202–208–2222, or by E-mail to *rimsmaster@ferc.fed.us.*

Finally, the complete text on diskette in Word perfect format may be purchased from the Commission's copy contractor, RVJ International, Inc. located in the Public Reference Room at 888 First Street, NE., Washington, DC 20426.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 01–19109 Filed 7–31–01; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket Nos. ER01–1315–000 and ER01–1315–001]**

## AES Ironwood, LLC; Notice of Issuance of Order

July 26, 2001.

AES Ironwood, LLC (AES Ironwood) submitted for filing a rate schedule under which AES Ironwood will engage in wholesale electric power and energy transactions at market-based rates. AES Ironwood also requested waiver of various Commission regulations. In particular, AES Ironwood requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by AES Ironwood.

On June 5, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by AES Ironwood should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, AES Ironwood is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of AES Ironwood and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of AES Ironwood's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is August 27, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–19131 Filed 7–31–01; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket Nos. ER01–1414–000 and ER01–1414–001]**

## Northern Lights Power Company; Notice of Issuance of Order

July 26, 2001.

Northern Lights Power Company (Northern Lights) submitted for filing a rate schedule under which Northern Lights will engage in wholesale electric power and energy transactions at market-based rates. Northern Lights also requested waiver of various Commission regulations. In particular, Northern Lights requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Northern Lights.

On June 7, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Northern Lights should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Northern Lights is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Northern Lights and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Northern Lights' issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is August 27, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426. The Order may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–19132 Filed 7–31–01; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket Nos. ER01–1764–000]**

## PEI Power II, LLC; Notice of Issuance of Order

July 26, 2001.

PEI Power II, LLC (PEI) submitted for filing a rate schedule under which PEI will engage in wholesale electric power and energy transactions at market-based rates. PEI also requested waiver of various Commission regulations. In particular, PEI requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by PEI.

On June 7, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by PEI should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, PEI is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of PEI and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of PEI's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is August 27, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–19134 Filed 7–31–01; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RP01–491–000]**

## Stingray Pipeline Company, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

July 26, 2001.

Take notice that on July 20, 2001 Stingray Pipeline Company, L.L.C. (Stingray) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet, to become effective on August 1, 2001:

Original Sheet No. 312

Stingray states that the purpose of this filing is to provide existing and new shippers an opportunity to expeditiously gain access to Stingray's Interactive Internet Website (AltraWeb) for daily transactional activities once the transition to the new operator occurs on August 1, 2001. The tariff sheet being filed herein is the Interactive Internet Website User Access Authorization Form, which can be downloaded from Stingray's Internet Web Site and executed by Shippers to receive access authorization to Stingray's AltraWeb. Execution of this form will supplant the need to execute a full System License Agreement. Stingray is requesting waiver of the 30-day notice period requirement pursuant to Section 154.207 of the Commission's regulations

so that this option will be available to Shippers on the date of the change of operator.

Stingray states that a copy of this filing has been served upon its customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 01–19140 Filed 7–31–01; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. ER01–1709–000]**

## VIASYN, Inc.; Notice of Issuance of Order

July 26, 2001.

VIASYN, Inc. (VIASYN) submitted for filing a rate schedule under which VIASYN will engage in wholesale electric power and energy transactions at market-based rates. VIASYN also requested waiver of various Commission regulations. In particular, VIASYN requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by VIASYN.

On June 1, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by VIASYN should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, VIASYN is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of VIASYN, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of VIASYN's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is August 27, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–19133 Filed 7–31–01; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RP01–489–000]**

## Viking Gas Transmission Company; Notice of Tariff Filing

July 26, 2001.

Take notice that on July 20, 2001, Viking Gas Transmission Company (Viking) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to be effective August 20, 2001:

Sixth Revised Sheet No. 69
First Revised Sheet Nos. 148 Through 165

Viking states that the purpose of this filing is to delete Viking's pro forma Trading Partner Agreement (TPA) and implement the use of the Gas Industry Standards Board's (GISB) Model Trading Partner Agreement (Model TPA).

Viking states that copies of this filing have been served on all Viking's jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 01–19139 Filed 7–31–01; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. CP01–402–000]**

## Williston Basin Interstate Pipeline Company; Notice of Application

July 26, 2001.

Take notice that on July 17, 2001, Williston Basin Interstate Pipeline Company (Williston Basin), P. O. Box 5601, Bismarck, North Dakota 58506–5601, filed in Docket No. CP01–402–000 an abbreviated application pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA) for a certificate of public convenience and necessity authorizing the: (1) Installation and operation of three natural gas storage injection/withdrawal wells; and (2) abandonment of three existing natural gas storage injection/withdrawal wells in the Cedar Creek (Baker) Storage Field, Fallon County, Montana, all as more fully set forth in the application which is on file with the Commission and open to public inspection. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

Specifically, Williston Basin proposes to install and operate: (1) Well WBI No. 3001 Federal in section 26, T9N, R58E; (2) Well WBI No. 3002 Federal in section 10, T8N, R59E; and (3) Well WBI No. 3003 Federal in section 28, T10N, R58E (Proposed Wells). Williston Basin also proposes to plug and abandon: (2) Well WBI No. 27 located in section 26, T9N, R58E; (2) Well WBI No. 72 located in section 22, T8N, R59E; and (3) Well WBI No. 49 located in section 21, T10N, R58E (Existing Wells). Williston Basin states that the drilling of the Proposed Wells and abandonment of the Existing Wells reflects the initiation of a gas storage well replacement program in the Baker Storage Field to maintain current field deliverability and gain operational efficiencies.

Williston Basin says that the deliverability of the Proposed Wells could exceed that of the Existing Wells, but it does not intend to operate the overall field in such a way as to exceed its current firm deliverability of 114,815 Mcf per day. Williston Basin states that the estimated cost to install the Proposed Wells is $507,620 and requests rolled-in rate treatment. Williston Basin further states that the accounting treatment of the abandonment of the Existing Wells is shown in Exhibit Y of the application.

Williston Basin further states that in association with the installation and operation of the Proposed Wells, it plans to construct three field meter stations and approximately 8,711 feet of new 6-inch gas storage field line; and abandon one meter station and approximately 8,401 feet of 3- and 4-inch natural gas storage line. Williston Basin states that this would be done pursuant to its blanket certificate authorized in Docket Nos. CP82–487–000, *et al.* (30 FERC ¶ 61,143).

Any questions regarding this application should be directed to Keith A. Tiggelaar, Manager—Regulatory Affairs, Williston Basin Interstate Pipeline Company, P. O. Box 5601, Bismarck, North Dakota 58506–5601, at 701–530–1560 or keith.tiggelaar@wbip.com.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before August 16, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 01–19130 Filed 7–31–01; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. EC01–129–000, et al.]**

## Caledonia Generating, LLC, et al.; Electric Rate and Corporate Regulation Filings

July 25, 2001.

Take notice that the following filings have been made with the Commission:

### 1. Caledonia Generating, LLC

[Docket Nos. EC01–129–000 and ER01–1383–001]

Take notice that on July 19, 2001, Caledonia Generating, LLC (Caledonia) tendered for filing an application under section 203 of the Federal Power Act for approval of, and notice of change in status with respect to, the transfer of a 50 percent non-managing membership interest in Caledonia to General Electric Capital Corporation (GECC). Caledonia is a limited liability company organized for the purpose of developing, owning, and operating an approximately 813 MW electric generation facility located near Caledonia, Mississippi. This application also reports the transaction as a change in status regarding Caledonia's market-based rate tariff insofar as Caledonia will become a non-controlled affiliate of GECC as a result of the transfer of interest.

*Comment date:* August 9, 2001, in accordance with Standard Paragraph E at the end of this notice.

### 2. Combined Locks Energy Center, LLC

[Docket No. EG01–265–000]

Take notice that on July 23, 2001, Combined Locks Energy Center, LLC (CLEC) filed an Application for Determination of Exempt Wholesale Generator Status (Application) pursuant to section 32(a)(1) of the Public Utilities Holding Company Act of 1935 (PUHCA), all as more fully explained in the Application.

CLEC will own and operate a 50 MW cogeneration facility located in Combined Locks, Wisconsin, which will be the Eligible Facility for purposes of PUHCA. CLEC has served this filing on Public Service Commission of Wisconsin and the Securities and Exchange Commission.

*Comment date:* August 23, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

### 3. ONEOK Power Marketing Company

[Docket No. EG01–266–000]

On July 23, 2001, ONEOK Power Marketing Company 1600 ONEOK Plaza, 100 West 5th, Tulsa, OK 74103, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations. The applicant is constructing an electrical generating facility titled ''Spring Creek.'' ONEOK owns all of the capacity and power of the Spring Creek facility. The Spring Creek plant is located north of Oklahoma City, in Logan County, Oklahoma. It consists of four (4) General Electric 7EA gas turbines each capable of generating 84.5 Mw at ISO conditions. Spring Creek will be an eligible facility within the meaning of section 32(a)(2) of PUHCA. The net electric generation of the facility will be exclusively at wholesale.

*Comment date:* August 13, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

### 4. Enova Energy, Inc.

[Docket No. ER96–2372–018]

Take notice that Sempra Energy Solutions on July 23, 2001, tendered for filing an updated market power analysis pursuant to the order of the Commission in this docket proceeding.

Sempra Energy Solutions, formerly known as Enova Energy, Inc., is a provider of energy services, including energy information, energy commodity, energy efficiency, and energy facility management. The updated market power analysis is required by the Commission's prior order accepting for filing the proposed market-based rates of Enova Energy, Inc.

*Comment date:* August 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

### 5. Delmarva Power & Light Company

[Docket No. ER01–209–001]

Take notice that Delmarva Power & Light Company, on July 20, 2001, tendered for filing revised rate schedules between Delmarva and each of the Delaware Cities of Lewes, Milford, Newark, and New Castle and the Delaware Towns of Middletown, Clayton, and Smryna (collectively, the Municipalities). Delmarva also tendered for filing a revised rate schedule between Delmarva and the Delaware Municipal Electric Corporation (DEMEC). Delmarva requests that the Commission waive its notice of filing requirements to allow all of the revised rate schedules to become effective retroactively as of January 1, 2000 because the revisions provide for reductions in the charges to the customers.

Copies of the filing were served upon the public utility's jurisdictional customers and the Delaware Public Service Commission.

*Comment date:* August 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

### 6. PacifiCorp

[Docket No. ER01–1152–002]

Take notice that PacifiCorp on July 23, 2001, tendered for filing an amendment to its January 30, 2001 filing of a revised Exhibit C to the contract for Interconnections and Transmission Service between PacifiCorp and Western Area Power Administration (Western), Contract No. 14–06–400–2436, Supplement No. 2 (PacifiCorp's Rate Schedule FERC No. 262). The revisions modify the rates charged to Western for Block 2 transmission service. Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

PacifiCorp has requested an effective date of April 1, 2001.

*Comment date:* August 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

### 7. American Transmission Company LLC

[Docket No. ER01–2617–001]

Take notice that on July 19, 2001, American Transmission Company LLC (ATCLLC) tendered for filing amended Firm and Non-Firm Point-to-Point Service Agreements between ATCLLC and Ameren Energy Marketing Company ATCLLC requests an effective date of July 11, 2001.

*Comment date:* August 9, 2001, in accordance with Standard Paragraph E at the end of this notice.

### 8. Wisconsin Electric Power Company

[Docket No. ER01–2648–000]

Take notice that on July 23, 2001, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing a notification indicating its consent to the assignment of rights and obligations under an electric service agreement for its Market Rate Tariff (FERC Electric Tariff, Original Volume No. 8) as requested by the customer. Wisconsin Electric respectfully requests effective July 1, 2001, Service Agreement No. 12 with Commonwealth Edison Company is assigned to Exelon Generation Company, LLC (ExGen).

Wisconsin Electric requests waiver of any applicable regulation to allow for the effective date as requested above. Copies of the filing have been served on ExGen, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

*Comment date:* August 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

**9. Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC**

[Docket No. ER01–2649–000]

Take notice that on July 23, 2001, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply) filed Service Agreement No. 137 to add one (1) new Customer to the Market RateTariff under which Allegheny Energy Supply offers generation services. Allegheny Energy Supply requests a waiver of notice requirements for an effective date of June 26, 2001 for Orion Power MidWest, L.P. Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

*Comment date:* August 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

**10. Southern California Edison Company**

[Docket No. ER01–2650–000]

Take notice, that on July 23, 2001, Southern California Edison Company (SCE) tendered for filing a Service Agreement For Wholesale Distribution Service under SCE's Wholesale Distribution Access Tariff and an Interconnection Facilities Agreement between SCE and the City of Colton, California (Colton). These agreements specify the terms and conditions pursuant to which SCE will interconnect and provide wholesale Distribution Service to Colton for up to 80 MW of generation produced by combustion turbines owned by Alliance Colton, LLC (Alliance) and connected to Colton's Drews and Century Substations. SCE requests that these agreements become effective on July 24, 2001.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Colton.

*Comment date:* August 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

**11. Metropolitan Edison Company**

[Docket No. ER01–2651–000]

Take notice that on July 23, 2001, Metropolitan Edison Company (doing business as GPU Energy) submitted for filing an amendment to the Generation Facility Transmission Interconnection Agreement between GPU Energy and AES Ironwood, L.L.C.

*Comment date:* August 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

**12. Arizona Independent Scheduling Administrator Association**

[Docket No. ER01–2652–000]

Take notice that on July 23, 2001, the Arizona Independent Scheduling Administrator Association (Arizona ISA), tendered for filing pursuant to section 205 of the Federal Power Act a revised version of Original Service Agreement No. 4, the Agreement By And Among Arizona Independent Scheduling Administrator Association, Scheduling Coordinators And Tucson Electric Power Company (Agreement).

The revisions reformat the Agreement so that it complies with the requirements of Order No. 614, and adds a signature page executed by Tucson Electric Power Company. There are no changes to the substantive provisions of the document. The Arizona ISA requests that the Commission make the revisions to the Agreement effective as of July 10, 2001.

*Comment date:* August 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

**13. Deseret Generation & Transmission Co-operative**

[Docket No. ER01–2653–000]

Take notice that Deseret Generation & Transmission Co-operative, Inc. (Deseret) on July 23, 2001, tendered for filing two (2) executed umbrella service agreements with Calpine Energy Services, LP (Calpine) pursuant to Deseret's open access transmission tariff. Deseret requests a waiver of the Commission's notice requirements for an effective date of July 1, 2001. Deseret's open access transmission tariff is currently on file with the Commission in Docket No. OA97–487–000. Calpine has been provided a copy of this filing.

*Comment date:* August 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

**14. Consumers Energy Company**

[Docket No. ER01–2654–000]

Take notice that on July 23, 2001, Consumers Energy Company (Consumers) tendered for filing a Service Agreement with Williams Energy Marketing & Trading Company, (Customer) under Consumers' FERC Electric Tariff No. 9 for Market Based Sales. Consumers requested that the Agreement be allowed to become effective as of the date of its filing.

Copies of the filing were served upon the Customer and the Michigan Public Service Commission.

*Comment date:* August 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

**15. Maine Public Service Company**

[Docket No. ER01–2655–000]

Take notice that on July 23, 2001, Maine Public Service Company (Maine Public) filed an executed Service Agreement for Non-Firm Point-To-Point Transmission Service under Maine Public's open access transmission tariff with Aroostook Valley Electric Company.

*Comment date:* August 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

**16. Credit Suisse First Boston International**

[Docket No. ER01–2656–000]

Take notice that on July 23, 2001, Credit Suisse First Boston International (CSFB) petitioned the Commission for acceptance of CSFBI Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

CSFBI intends to engage in wholesale electric power and energy transactions as a marketer and a broker. CSFBI is not in the business of generating or transmitting electric power. CSFBI is a privately-held corporation formed under the laws of England and Wales. CSFBI's principal place of business is London, England. In transactions where CSFBI sells electric power it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party.

*Comment date:* August 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

**17. New England Power Company**

[Docket No. ER01–2657–000]

Take notice that on July 23, 2001, New England Power Company (NEP) submitted for filing a service agreement between NEP and AES Londonderry, L.L.C. (AES) for firm local generation delivery service under NEP's FERC Electric Tariff, Second Revised Volume No. 9, Original Service Agreement No. 204.

Copies of the filing were served upon AES and the New Hampshire Public Utilities Commission.

*Comment date:* August 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

**18. American Electric Power Service Corporation**

[Docket No. ER01–2658–000]

Take notice that on July 23, 2001 American Electric Power Service Corporation tendered for filing, on behalf of the operating companies of the American Electric Power System (collectively, AEP), proposed amendments to the AEP Open Access Transmission Tariff. AEP requests an effective date of the later of July 31, 2001, or the commencement date of the pilot program established pursuant to the State of Texas' electricity restructuring statute for such amendments.

Copies of the transmittal letter to AEP's filing have been served upon AEP's transmission customers and copies of the complete filing have been served on the public service commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Tennessee, Texas, Virginia and West Virginia and the Oklahoma Corporation Commission.

*Comment date:* August 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

**Standard Paragraph**

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–19108 Filed 7–31–01; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. EC01–127–000, et al.]**

## Holyoke Water Power Company, et al.; Electric Rate and Corporate Regulation Filings

July 24, 2001.

Take notice that the following filings have been made with the Commission:

**1. Holyoke Water Power Company Holyoke Power and Electric Company**

[Docket Nos. EC01–127–000 and ER01–2620–000]

Take notice that on July 17 , 2001, Holyoke Water Power Company and Holyoke Power and Electric Company (Applicants) tendered for filing an Application for approval under Section 203 of the Federal Power Act for approval of the disposition of jurisdictional facilities that will result from the sale of certain facilities to the City of Holyoke Gas & Electric Department and for acceptance under section 205 of the Federal Power Act an amendment to a transmission service agreement. Applicants state that copies of this filing are being mailed to the City of Holyoke Gas and Electric Department and the Massachusetts Department of Telecommunications and Energy.

*Comment date:* August 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

**2. New Albany Power I, LLC Duke Energy North America, LLC**

[Docket No. EC01–128–000]

Take notice that on July 18, 2001, New Albany Power I, LLC (New Albany) and Duke Energy North America, LLC (DENA) (the Applicants) filed with the Federal Energy Regulatory Commission (Commission) an application pursuant to section 203 of the Federal Power Act for authorization of the transfer of Enron North America Corp. (ENA) 100% membership interests in New Albany to DENA or a special purpose subsidiary of DENA (the Transaction). DENA will pay cash for the membership interests. New Albany owns and operates an approximately 396 MW natural gas-fired, simple-cycle electric generating facility located in Union County, Mississippi (the Facility). The Transaction may constitute the indirect disposition of jurisdictional facilities associated with the Facility (*e.g.,* market-based rate schedules of New Albany and the sales agreements entered into thereunder, limited transmission interconnection facilities and jurisdictional books and records).

*Comment date:* August 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

**3. Colton Power L.P.**

[Docket No. EG01–264–000]

Take notice that on July 20, 2001, Colton Power L.P. (Applicant) a Delaware limited partner, with its principal office located at 100 Clinton Square, Suite 403, 126 North Salina Street, Syracuse, New York 13202, filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations and Section 32 of the Public Utility Holding Company Act of 1935, as amended.

Applicant is a Delaware limited partnership, with PE-Colton, LLC, a Delaware limited liability company, as its sole general partner. Applicant is developing two approximately 40 MW operating stations, each comprising four approximately 10 MW gas-fired combustion turbine-generator sets, with all related electric transmission grid interconnections, near the City of Colton, California (the ''Facilities''), and will make sales of electric energy and capacity at wholesale from those Facilities.

Copies of the application have been served upon the California Public Utility Commission and the Securities and Exchange Commission.

*Comment date:* August 10, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

**4. California Independent System Operator Corporation**

[Docket No. ER01–2632–000]

Take notice that on July 20, 2001, the California Independent System Operator Corporation (ISO) tendered for filing a participating Load Agreement (PLA) with the California Department of Water Resources. The PLA is designed to set forth the terms and conditions that govern a Load's provision of Ancillary Services or Supplemental Energy, in a manner analogous to the Participating Generator Agreement, or PGA, with

regard to generating resources. The PLA is designed to increase participation of Load resources in the ISO's markets. The ISO states that this filing has been served on the California Department of Water Resources and the California Public Utilities Commission.

The ISO requests waiver of the Commission's notice requirements and an effective date for the PLA of September 10, 2000.

*Comment date:* August 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

**5. PPL Montana, LLC**

[Docket No. ER01–2633–000]

Take notice that on July 20, 2001, PPL Montana, LLC (PPL Montana) filed a notice of cancellation of PPL Montana Service Agreement No. 6 under PPL Montana's FERC Electric Tariff, Original Volume No. 1. Service Agreement No. 6 is a long-term power sales agreement between PPL Montana and Energy West Resources, Inc. PPL Montana requests an effective date of this cancellation of sixty days from the date of filing.

PPL Montana has served a copy of the notice of cancellation on Energy West Resources, Inc.

*Comment date:* August 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

**6. ALLETE, Inc. dba Minnesota Power**

[Docket No. ER01–2636–000]

Take notice that on July 18, 2001, ALLETE, Inc., dba Minnesota Power, filed with the Federal Energy Regulatory Commission a notice of name change and adoption and ratification of all filed rate schedules and supplements thereto under its former names of Minnesota Power, Inc. and Minnesota Power & Light Company, in accordance with 18 CFR 35.16, effective May 8, 2001.

*Comment date:* August 8, 2001, in accordance with Standard Paragraph E at the end of this notice.

**7. Wisconsin Electric Power Company**

[Docket No. ER01–2637–000]

Take notice that on July 20, 2001, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing two (2) amendments to its electric service agreement (SA) with Badger Power Marketing Authority of Wisconsin (BPMA). The SA is under Wisconsin Electric's FERC Electric Tariff Third Revised Volume No. 1 and is Service Agreement No. 25. Copies of the filing have been served on BPMA, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

WEPCO requests waiver of the Commission's notice of filing requirements to allow amendment #4 to become effective on June 1, 2001, and amendment #5 to become effective on May 1, 2001. Billings to the customer have not been made pursuant to the new amendments as of this filing date, therefore, refunds are not at issue.

*Comment date:* August 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

**8. Potomac Electric Power Company**

[Docket No. ER01–2638–000]

Take notice that on July 20, 2001, Potomac Electric Power Company (Pepco) tendered for filing pursuant to section 205 of the Federal Power Act an executed Interconnection Agreement (NEMWDA), dated as of July 13, 2001 between Pepco and the Northeast Maryland Waste Disposal Authority as a service agreement under the PJM Interconnection, LLC's open access transmission tariff.

*Comment date:* August 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

**9. Idaho Power Company IDACORP Energy, LP**

[Docket No. ER01–2639–000]

Take notice that on July 20 2001, Idaho Power Company and IDACORP Energy, LP filed (1) an amendment to Idaho Power Company's (Idaho Power) Market Rate Power Sale Tariff, FERC Electric Tariff First Revised Volume No. 6, (2) an amendment to IDACORP Energy Solutions, LP's (IES) Market Rate Power Sale Tariff, FERC Electric Tariff Original Volume 1, and (3) amendments to Idaho Power Service Agreement No. 48 and IES Service Agreement No. 1 under their respective tariffs. The amendments provide for Idaho Power and IES to reassign transmission capacity, in accordance with Commission policy.

*Comment date:* August 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

**10. Michigan Electric Transmission Company**

[Docket No. ER01–2640–000]

Take notice that on July 20, 2001 Michigan Electric Transmission Company (Michigan Transco) tendered for filing a Letter Agreement Distributed Power Systems, LLC (Generator) and Michigan Transco, dated June 21, 2001, (Agreement). Under the Agreement, Michigan Transco is to undertake certain pre-construction activities associated with providing an electrical connection between Michigan Transco's transmission system and a generating plant to be built by Generator. Copies of the filing were served upon Generator and the Michigan Public Service Commission.

Michigan Transco requested that the Agreements be allowed to become effective June 21, 2001.

*Comment date:* August 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

**11. High Desert Power Project, LLC**

[Docket No. ER01–2641–000]

Take notice that on July 20, 2001, High Desert Power Project, LLC submitted for filing, pursuant to section 205 of the Federal Power Act, and part 35 of the Commission's regulations, a Petition for authorization to make sales of capacity, energy, and certain Ancillary Services at market-based rates, to reassign transmission capacity, and to resell Firm Transmission Rights.

*Comment date:* August 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

**12. Deseret Generation & Transmission Co-operative, Inc.**

[Docket No. ER01–2642–000]

Take notice that on July 20, 2001, Deseret Generation & Transmission Co-operative, Inc. (Deseret) tendered for filing an amendment to its Open Access Transmission Tariff, FERC Electric Tariff, Original Volume No. 2. The filing also complies with the Commission's rate schedule designation requirements as set forth in Order No. 614. Deseret requests an effective date of July 1, 2001.

Copies of this filing were served upon Deseret's transmission customers that take service under the Tariff.

*Comment date:* August 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

**13. Deseret Generation & Transmission Co-operative**

[Docket No. ER01–2643–000]

Take notice that Deseret Generation & Transmission Co-operative, Inc. (Deseret) on July 20, 2001, tendered for filing an executed long-term firm point-to-point service agreement with Powerex under Deseret's open access transmission tariff. Deseret's open access transmission tariff is currently on file with the Commission in Docket No. OA97–487–000. Powerex has been provided a copy of this filing.

Deseret requests a waiver of the Commission's notice requirements for an effective date of July 1, 2001.

*Comment date:* August 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

**14. Colton Power L.P.**

[Docket No. ER01–2644–000]

Take notice that on July 20, 2001, Colton Power L.P. (Applicant) tendered for filing, under section 205 of the Federal Power Act, a request for authorization to sell electricity at market-based rates under its market-based tariff.

*Comment date:* August 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

**15. The Dayton Power and Light Company**

[Docket No. ER01–2645–000]

Take notice that on July 20, 2001, The Dayton Power and Light Company (Dayton) submitted service agreements establishing with Ameren Energy, Inc. as customers under the terms of Dayton's Open Access Transmission Tariff. Copies of this filing were served upon Ameren Energy, Inc. and the Public Utilities Commission of Ohio.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

*Comment date:* August 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

**16. The Dayton Power and Light Company**

[Docket No. ER01–2646–000]

Take notice that on July 20, 2001, The Dayton Power and Light Company (Dayton) submitted service agreements establishing with Ameren Energy, Inc. as customers under the terms of Dayton's Open Access Transmission Tariff. Copies of this filing were served upon Ameren Energy, Inc. and the Public Utilities Commission of Ohio.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Dayton requests waiver of the Commission's notice requirements.

*Comment date:* August 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

**17. Sierra Pacific Power Company; Nevada Power Company**

[Docket No. ER01–2647–000]

Take notice that on July 20, 2001, Nevada Power Company (Nevada Power) tendered for filing Service Agreement No. 90 to the Sierra Pacific Resources Operating Companies FERC Electric Tariff, First Revised Volume No. 1, which is Nevada Power's Open Access Transmission Tariff. This Service Agreement is an executed Transmission Service Agreement (TSA) between Nevada Power and Reliant Energy Services, (Reliant Bighorn).

Nevada Power requests that this TSA be made effective as of June 1, 2002, which is the service commencement date under the TSA.

*Comment date:* August 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

**Standard Paragraph**

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–19107 Filed 7–31–01; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Project No. 1494–209 Oklahoma]**

## Grand River Dam Authority: Notice of Availability of Environmental Assessment

July 26, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47910, the Office of Energy Projects has prepared an environmental assessment (EA) on the Grand River Dam Authority's application for approval of a new dock facility. The Grand River Dam Authority proposes to permit John Ahern, d/b/a Beehern Properties (permittee), to dredge approximately 7,500 to 8,000 cubic yards of sediment and to install three boat docks and a breakwater within Grand Lake's Kelly Cove. The proposed facility includes 20 slips and will be used in conjunction with the permittee's planned residential development on his adjoining property. The Pensacola Project is on the Grand River, in Craig, Delaware, Mayes, and Ottawa Counties, Oklahoma.

The EA is attached to a Commission order issued on July 25, 2001, for the above application. Copies of the EA can be obtained by calling the Commission's Public Reference Room at (202) 208–1371. Copies of the EA can also be obtained through the Commission's homepage at *http://www.ferc.fed.us.* In the EA, staff concludes that approval of the licensee's proposal would not constitute a major Federal action significantly affecting the quality of the human environment.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 01–19135 Filed 7–31–01; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. CP01–361–000]**

## Northwest Pipeline Corporation; Notice of Intent To Prepare an Environmental Assessment for the Proposed Grays Harbor Pipeline Project 2001 and Request for Comments on Environmental Issues

July 26, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Grays Harbor Pipeline Project 2001 involving construction and operation of facilities by Northwest Pipeline Corporation (Northwest) in Thurston and Grays Harbor Counties, Washington.[1] These facilities would consist of about 48.9 miles of 20-inch-diameter pipeline and 4,700 horsepower (hp) of compression. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

[1] Northwest's application was filed with the Commission under section 7 of the Natural Gas Act and part 157 of the Commission's regulations.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice Northwest provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet website (www.ferc.gov).

**Summary of the Proposed Project**

Northwest wants to expand the capacity of its facilities in Washington to transport an additional 161,500 million British thermal units per day of natural gas to Duke Energy Grays Harbor, LLC (Duke) at the Satsop Meter Station for electricity generation at a planned new electric power plant (the Satsop Combustion Turbine Project) near Satsop, Grays Harbor County, Washington. The electric power plant would be located in the Satsop Development Park at the site of two abandoned nuclear power plant projects started in the late 1970's by the Washington Public Power Supply System (now Energy Northwest). Work on the nuclear plants was halted in 1983. Northwest seeks authority to construct and operate:

- 49 miles of 20-inch-diameter pipeline and tie-in assembly in Thurston and Grays Harbor Counties, Washington;
- Two 16-inch taps, one each on Northwest's 26-inch-diameter mainline and 30-inch-diameter loop;
- Approximately 4,700 horsepower (hp) of additional compression and related modifications at the existing Tumwater Compressor Station in Thurston County, Washington;
- A new meter station;
- Four block valve assemblies; and
- A new antenna and radio repeater at the existing Capitol Peak radio site in an existing building.

The location of the project facilities is shown in appendix 1.[2]

Approximately 30 miles (61 percent) of the lateral pipeline would be constructed parallel to (loop) existing pipelines that were installed in the 1950's and 1960's and 19 miles of new right-of-way.

Over 77 percent of the the gas lateral pipeline alignment currently proposed by Northwest is the same route evaluated in the Bonneville Power Authority's (BPA) Environmental Impact Statement (EIS) and approved by the Washington State Energy Facility Site Evaluation Council (EFSEC). A summary of the route is included below.

From the tie-in with Northwest's mainline at milepost (MP) 0.0 to the transmission line corridor at MP 16.73, the pipeline alignment is the same as the route analyzed in the BPA's EIS and approved by the EFSEC.

From the BPA transmission line corridor at MP 16.73 to about MP 24.69, Northwest proposes to utilize an alignment different from the BPA/EFSEC route (that is, to continue to loop its existing Olympia to Sheldon pipeline west around Black Lake) .

From MP 24.69 to MP 28.01, Northwest's pipeline route follows the BPA/EFSEC route, and from MP 28.01 to MP 33.11, the pipeline would continue west across Capitol State Forest on the south side of the McCleary Pipeline.

From its departure from the McCleary Pipeline (MP 33.11) to the just east of the Workman Creek crossing at MP 45.73, the pipeline route followed is the same as the BPA/EFSEC route.

From MP 45.73 Northwest's alignment deviates from the BPA/EFSEC route and proceeds north across the BPA Transmission Line and west crossing the Chehalis River at two locations before reaching the tie-in at the Satsop Meter Station.

**Land Requirements for Construction**

Construction of the proposed facilities would require about 475.8 acres of land. Following construction, about 186.1 acres would be maintained as permanent right-of-way including the aboveground facility sites. The remaining 289.7 acres of land would be restored and allowed to revert to its former use. The upgrade to the existing Tumwater Compressor Station would be within a new 40 foot by 56 foot building within the existing compressor station property. The new Satsop Meter Station would occupy a site approximately 200 feet by 200 feet (0.92 acre); a tie-in assembly at Northwest's existing mainline at MP 0.0 would be about 90 feet by 130 feet (0.27 acre); and each block valve would require less than 0.1 acre of disturbance.

The Satsop Combustion Turbine Project would be constructed on a 13-acre industrial site formerly used as an equipment laydown area for the now abandoned nuclear power plants.

**The EA Process**

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [3] to discover and address concerns the public may have about proposals. We call this ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- geology and soils
- land use
- water resources, fisheries, and wetlands
- cultural resources
- vegetation and wildlife
- air quality and noise
- endangered and threatened species
- hazardous waste
- public safety

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas. We have initially observed one alternative that needs to be explored from approximately MP 24.5 to MP 48.9 where the lateral pipeline could

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's website at the ''RIMS'' link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[3] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

potentially follow and overlap an existing BPA electric transmission line right-of-way. Also, the applicant has identified an alternative route (the East Black Lake Alternative) from about MP 16.5 to MP 24.5 that needs to be explored in greater detail (see alternative route on maps in Appendix 1, from MP E0 to MP E7, pages 6 through 9 of 22).

In addition, the BPA prepared an EIS in November 1995 and the EFSEC completed a Site Certification Agreement in August 1999 for the project area. Those documents have already reviewed the currently proposed gas pipeline corridor to a large extent, and we intend to incorporate them by reference to the greatest extent possible in the preparation of our EA. Any relevant changes to our EA will be made as necessary.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section beginning on page 6.

**Currently Identified Environmental Issues**

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Northwest. This preliminary list of issues may be changed based on your comments and our analysis.

- Several federally listed endangered or threatened species may occur in the proposed project area.
- A total of 25.6 acres of cropland and pastureland would be converted to permanent pipeline right-of-way and about 114.2 acres of forest land including cultivated timber land would be permanently impacted.
- Six waterbodies would be crossed using the horizontal directional drill method.
- Many of the streams and rivers that would be crossed by the pipeline contain anadromous salmon which are listed or proposed for listing under the Endangered Species Act. Also, essential fish habitat is present in numerous waterbodies that the pipeline would cross.
- An increase in noise may result from the addition of 4,700 hp at the existing Tumwater Compressor Station.
- The pipeline would cross the Fort Lewis Military Reservation.
- The pipeline would cross the Black River Unit Nisqually National Wildlife Refuge.
- The pipeline would cross the Capitol State Forest property.
- Nineteen residences are known to be located within 50 feet of the proposed construction right-of-way.

We have made a preliminary decision to not address the impacts of the nonjurisdictional electric power plant facilities. An EIS was done on those facilities by the BPA and a Site Certification Agreement completed by the EFSEC. We will briefly describe the location and status of those facilities in the EA.

**Public Participation**

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations/routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas 2.
- Reference Docket No. CP01–361–000.
- Mail your comments so that they will be received in Washington, DC on or before August 27, 2001.

Comments, protests and interventions may also be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you will need to create an account which can be created by clicking on ''Login to File'' and then ''New User Account.''

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

**Becoming an Intervenor**

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor.'' Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).[4] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Copies of this filing are on file with the Commission and are available for public inspection. Additional information about the proposed project is available from the Commission's Office of External Affairs at (202) 208–1088 or on the FERC website (http://www.ferc.gov) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the

[4] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

CIPS helpline can be reached at (202) 208–2474.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 01–19129 Filed 7–31–01; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Notice of Transfer of License and Soliciting Comments, Protests, and Motions To Intervene

July 26, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No:* 2004–104.

c. *Date Filed:* July 17, 2001.

d. *Applicants:* Holyoke Water Power Company (HWP) and the City of Holyoke Gas & Electric Department (HG&E)

e. *Name and Location of Project:* The Holyoke Hydroelectric Project is located on the Connecticut River in Hampden County, Massachusetts. The project does not occupy federal or tribal land.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contacts:* For HWP: Mr. James B. Vasile, Davis Wright Tremaine LLP, Suite 450, 1500 K Street, NW., Washington, DC 20005, (202) 508–6600. For HG&E: Mr. Ben Finklestein, Spiegel & McDiarmid, 1350 New York Avenue, NW., Suite 1100, Washington, DC 20005, (202) 879–4000.

h. *FERC Contact:* James Hunter, (202) 219–2839.

i. *Deadline for filing comments, protests, and motions to intervene:* August 24, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Comments, protests, and motions to intervene may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm* under the ''e-Filing'' link. Please include the project number (P–2004–104) on any comments or motions filed.

j. *Description of Proposal:* The applicants request approval of a transfer of the license for Project No. 2004 from HWP to HG&E. This transfer is being sought in connection with a proposed sale of the Holyoke Hydroelectric Project to HG&E as part of a Settlement Agreement between HWP and HG&E, dated June 7, 2001.

k. *Locations of the application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions ((202) 208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. A copy is also available for inspection and reproduction at the addresses in item g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. An additional copy must be sent to the Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 01–19136 Filed 7–31–01; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

July 26, 2001.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of Installed Capacity.

b. *Project No:* 2407–060.

c. *Date Filed:* June 1, 2001.

d. *Applicant:* Alabama Power Company.

e. *Name of Project:* Yates and Thurlow.

f. *Location:* near the Town of Tallassee, in Tallapoosa and Elmore Counties, AL.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a) 825(r) and sections 799 and 801.

h. *Applicant Contact:* R. M. Akridge, Alabama Power Company, 600 North 18th Street, PO Box 2641, Birmingham, AL 35291–8180.

i. *FERC Contact:* Any questions on this notice should be addressed to: Anumzziatta Purchiaroni at (202) 219–3297, or e-mail address: anumzziatta.purchiaroni@ferc.fed.us.

j. *Deadline for filing comments and or motions:* September 7, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Please include the project number (P–2407–060) on any comments or motions filed.

k. *Description of Request:* The licensee is requesting an amendment of its license to revise the hydraulic and generating capacities of the project. In the filing the licensee indicates that the project has recently completed turbine and generator upgrades for Yates units Nos. 1 and 2 and Thurlow Units Nos. 1, 2, and 3. The upgrades resulted in an increased of the total installed capacity from 100.3 MW to 125.6 MW, and the design flow from 20,800 cfs to 25,616 cfs.

l. Locations of the Application: Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Commission's web site at& *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions ((202)208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 01–19137 Filed 7–31–01; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Notice of Application Accepted for Filing and Soliciting Motions to Intervene, Protests, and Comments

July 26, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12061–000.

c. *Date filed:* July 2, 2001.

d. *Applicant:* Christopher J. Pihl.

e. *Name of Project:* May Creek Project.

f. *Location:* May Creek and Lake Isabel in Snohomish County, Washington. The project will be located within the Mount Baker Snoqualmie National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Christopher James Pihl, 18310 NE 136 St.,Woodinville, WA 98072, (206) 369–8277.

i. *FERC Contact:* Regina Saizan, (202) 219–2673.

j. *Deadline for filing motions to intervene, protests and comments:* October 1, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Please include the Project Number (12061–000) on any comments, protests, or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) A proposed intake structure and two dams, each approximately 98 feet long and 10 feet high, (2) a proposed 9,078-foot-long, 48-inch diameter, buried polyethylene and steel penstock, (3) a proposed powerhouse containing two generating units with a total installed capacity of 15 MW, (4) a proposed 5,468-foot-long, 69-kV transmission line, and (5) appurtenant facilities.

The project would have an annual generation of 87,600 MWh.

l. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions ((202) 208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. A copy is also available for inspection and reproduction at the address in item h above.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be

served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE.,Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**Linwood A. Watson, Jr.,**

*Acting Secretary.*

[FR Doc. 01–19138 Filed 7–31–01; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Western Area Power Administration

### Wolf Point-Williston Transmission Lines Rebuild Project

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of Floodplain/Wetlands Involvement.

**SUMMARY:** The Western Area Power Administration (Western) intends to rebuild an existing transmission line in northeastern Montana and western North Dakota. This project will involve the replacement of the existing wood pole H-frame structures along the entire route of the Wolf Point-Williston 115-kilovolt (kV) Transmission Line. The transmission line runs near the Missouri River and crosses Wolf Creek, Big Muddy Creek, and the Poplar River.

Following the U.S. Department of Energy (DOE) Floodplain/Wetland Review Requirements (10 CFR part 1022), Western will prepare a floodplain assessment for this project and will perform the proposed action in ways that avoid or minimize potential harm to or within the affected floodplain. The floodplain assessment will be included in the Environmental Assessment being prepared by Western, under the provisions of the DOE National Environmental Policy Act Implementing Procedures (10 CFR part 1021).

**DATES:** Comments on the proposed floodplain action are due to the address below by August 15, 2001.

**FOR FURTHER INFORMATION CONTACT:** Comments should be addressed to Mr. Theodore Anderson, Environmental Specialist, Upper Great Plains Customer Service Region, Western Area Power Administration, P.O. Box 35800, Billings, Montana 59107–5800, e-mail tanderso@wapa.gov. For further information on DOE Floodplain/Wetlands Environmental Review Requirements, contact: Ms. Carol M. Borgstrom, Director, NEPA Policy and Compliance, EH–42, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, telephone (202) 586–4600 or (800) 472–2756.

**SUPPLEMENTARY INFORMATION:** Western intends to rebuild the Wolf Point-Williston 115-kV Transmission Line that runs between the Wolf Point Substation west of Wolf Point, Montana, to the Williston Substation, west of Williston, North Dakota. The line is approximately 50 years old and approximately 94 miles long.

Western does not intend to operate the transmission line at 230-kV but only complete necessary improvements to the transmission line structures and conductor. Western proposes to replace the existing wood H-frame structures with either wood or steel 230-kV H-frame structures and intends to place these new structures in the same locations, as much as it is practicable. The line would have new conductor installed at this time. A 24-count fiber optic overhead ground wire is scheduled to be strung on the line in 2004. The fiber optic cable would replace one of the existing overhead ground wires.

The transmission line rebuild project will affect lands within the exterior boundaries of the Fort Peck Indian Reservation and pass near the towns of Wolf Point, Poplar, and Brockton. It will also affect private lands east of the Reservation and pass near the towns of Culbertson and Bainville in Roosevelt County, Montana, and terminate approximately 4 miles west of Williston in Williams County, North Dakota. There may be lands managed by the Bureau of Land Management and lands belonging to the State of Montana along this route.

The transmission line lies north of, but does not cross the Missouri River. The line crosses the floodplains of the Poplar River at Poplar, Montana; Wolf Creek near Wolf Point, Montana; and Big Muddy Creek west of Culbertson, Montana; all near their confluences with the Missouri River.

The action will entail removing of the existing structures and installing the new structures and equipment. Most ground disturbances will take place where the structures are replaced and at the pulling sites where new conductor is installed and where the fiber optic overhead groundwire will be installed in 2004. As part of the environmental review, Western will consider installing of new wood pole and new steel pole structures within the floodplains. The analysis will also consider the impacts from reconductoring the transmission line. Placing new structures in the existing right-of-way may result in changes in the maximum span length between structures. Span lengths changes would require some structure relocations. The analysis will consider a minimum right-of-way width of 125 feet to accommodate construction activities. A few specific routing alternatives to

alleviate existing problems have been identified along the Wolf Point-Williston line. Access routes exist, but there may be additional access trails or roads to individual structure locations.

Dated: July 24, 2001.

**Michael S. Hacskaylo,**

*Administrator.*

[FR Doc. 01–19128 Filed 7–31–01; 8:45 am]

**BILLING CODE 6450–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7022–1]**

## Agency Information Collection Activities: Submission for OMB Review; Comment Request; National Oil and Hazardous Substance Contingency Plan

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: National Oil and Hazardous Substances Pollution Contingency Plan, EPA ICR No. 1463.05, OMB No. 2050–0096, expiring on July 31, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before August 31, 2001.

**ADDRESSES:** Send comments, referencing EPA ICR No. 1463.05 and OMB Control No. 2050–0096, to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-mail at *Farmer.sandy@epamail.epa.gov*, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1463.05. For technical questions about the ICR contact Lois Gartner by phone at (703) 603–8889 or by E-mail at Gartner.Lois@epa.gov.

**SUPPLEMENTARY INFORMATION:** Title: National Oil and Hazardous Substances Pollution Contingency Plan (OMB Control No. 2050–0096; EPA ICR No. 1463.05) expiring July 31, 2001. This ICR is an extension of a currently approved collection.

*Abstract:* This ICR addresses the recordkeeping and reporting provisions of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP; 40 CFR part 300) for states that voluntarily participate in the remedial action phase of the Superfund program. The NCP requires states that voluntarily take the lead in remedial activities at Superfund sites to conduct those activities in a manner consistent with CERCLA (40 CFR 300.515(a)). In addition, this ICR addresses the record keeping and reporting provisions of the NCP that affect communities voluntarily providing their concerns to the lead agency about the Superfund process.

EPA funds state activity at 90 percent from the CERCLA Hazardous Substances Response Trust Fund (the Fund) for state-lead activities via cooperative agreements with EPA as provided in CERCLA section 104(d)(1)(42 U.S.C. 9604(d)(1)). States are not reimbursed from the fund for identification of state sites and community members are not reimbursed for participation in community involvement activities. Despite the fact that community members are not reimbursed for their time, this ICR estimates the time costs imposed on community members who voluntarily participate in community activities tied to the Superfund process.

The nature of the data being gathered as part of this information collection is not confidential. Information may be gathered from Potentially Responsible Parties (PRPs) that the PRP considers to be Confidential Business Information (CBI). When PRPs designate information as CBI, EPA follows restricted access procedures in handling the information. Lists of participants in community interview and lists of attendees of public meetings are not confidential. Some data gathered during community interviews may not be releasable, however, due to privacy concerns.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on March 9, 2001 (66 FR 14136); no comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 572 hours per site for states and 170 hours per site per citizen at 90 percent of Superfund sites. For 10 percent of Superfund sites—those sites where formal community group activities occur—the average is 330 hours per site per citizen. A ''unit'' burden is the burden incurred by a respondent for performing an individual site-specific activity. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Individuals or households, and state, local or tribal governments.

*Estimated Number of Respondents:* 4,965.

*Frequency of Response:* As required.

*Estimated Total Annual Hour Burden:* 185,860 hours.

*Estimated Total Annualized Capital, O&M Cost Burden:* $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1463.05 and OMB Control No. 2050–0096 in any correspondence.

Dated: July 18, 2001.

**Oscar Morales,**

*Director, Collection Strategies Division.*

[FR Doc. 01–19164 Filed 7–31–01; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7022–2]**

### Agency Information Collection Activities: Submission for OMB Review; Comment Request, Standards of Performance for New Stationary SourcesPhosphate Rock Plants

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Standards of Performance for New Stationary Sources—Phosphate Rock Plants—NSPS Subpart NN; (OMB Control Number 2060–0111), expiring August 31, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before August 31, 2001.

**ADDRESSES:** Send comments, referencing EPA ICR Number 1078.06 and OMB Control Number 2060–0111, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** For a copy of the ICR contact Susan Auby at EPA by phone at (202) 260–4901, by E-Mail at *Auby.Susan@epamail.epa.gov* or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No.1078.06. For technical questions about the ICR contact Stephen J. Howie, phone number 202–564–4146.

**SUPPLEMENTARY INFORMATION:**

*Title:* ICR for NSPS Subpart NN—Phosphate Rock Plants Subject to New Source Performance Standards, OMB Control Number 2060–0111, EPA ICR Number 1078.06, expiring August 31, 2001. This is a request for extension of a currently approved collection.

*Abstract:* Particulate matter emissions from phosphate rock plants cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, NSPS were promulgated for this source category.

The control of emissions of particulate matter from phosphate rock plants requires not only the installation of properly designed equipment, but also the operation and maintenance of that equipment. Emissions of particulate matter from phosphate rock plants are the result of operation of the calciners, dryers, grinders, and ground rock handling and storage facilities. These standards rely on the capture of particulate emissions by a baghouse or wet scrubber.

In order to ensure compliance with these standards, adequate reporting and recordkeeping is necessary. In the absence of such information enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

All reports are sent to the delegated State or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional Office. Notifications are used to inform the Agency or delegated authority when a source becomes subject to the standard. The reviewing authority may then inspect the source to check if the pollution control devices are properly installed and operated. Performance test reports are needed as these are the Agency's record of a source's initial capability to comply with the emission standard and note the operating conditions (flow rate and pressure drop) under which compliance was achieved. The quarterly reports are used for problem identification, as a check on source operation and maintenance, and for compliance determinations. The standard also requires semiannual reporting of deviations from monitored scrubber pressures or opacity, as these are good indicators of the source's compliance status.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on September 15, 2000, (65 FR 55955). No comments were received.

*Burden Statement:* The annual public reporting and recordkeeping burden for this collection of information is estimated to average 97 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

*Respondents/Affected Entities:* Phosphate Rock Plants.

*Estimated Number of Respondents:* 31.

*Frequency of Response:* On occasion.

*Estimated Total Annual Hour Burden:* 3002 hours.

*Estimated Total Annualized Capital/Startup & O&M Cost Burden:* $326,450.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1078.06 and OMB Control No. 2060–0111 in any correspondence.

Dated: July 25, 2001.

**Oscar Morales,**

*Director, Collection Strategies Division.*

[FR Doc. 01–19165 Filed 7–31–01; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7021–9]**

### Proposed Settlement Agreement

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

**ACTION:** Notice of proposed settlement agreement; request for public comment.

**SUMMARY:** Notice of accordance with section 113(g) of the Clean Air Act, as amended, 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement in *The Fertilizer Institute* v. *U.S. Environmental Protection Agency,* No. 99–1317 (D.C. Cir.).

This case concerns a challenge to the rule entitled National Emission Standards for Hazardous Air Pollutants Phosphoric Acid Manufacturing and Phosphate Fertilizers Production,

published in the **Federal Register** at 64 FR 31358 on June 10, 1999. The proposed settlement provides for EPA to propose revisions to the rule that would amend some of the emission standards and make other clarifications.

For a period of thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement from persons who were not named as parties to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the proposed settlement if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Copies of the settlement are available from Samantha Hooks (202) 564–5569. Written comments should be sent to Patricia Embrey, Office of General Counsel (2344R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and must be submitted on or before August 31, 2001.

Dated: July 25, 2001.

**Alan W. Eckert,**

*Associate General Counsel.*

[FR Doc. 01–19161 Filed 7–31–01; 8:45 am]

**BILLING CODE 6560–50–M**

## ENVIRONMENTAL PROTECTION AGENCY

**[OPP–100175; FRL–6795–6]**

## Visual Language Interpreting and Subcontractors, Signing Hands and Stuart B. Consultants Inc.; Transfer of Data

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

**ACTION:** Notice.

**SUMMARY:** This notice announces that pesticide related informationsubmitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide,Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act(FFDCA), including information that may have been claimed as Confidential BusinessInformation (CBI) by the submitter, will be tranferred to Visual Language Interpreting andsubcontractors, Signing Hands and Stuart B. Consultants, Inc., in accordance with 40 CFR2.30(h)(3) and 2.308(i)(2). Visual Language Interpreting and subcontractors, Signing Handsand Stuart B. Consultants, Inc., have been awarded a contract to perform work for OPP, andaccess to this information will enable Visual Language Interpreting and subcontractors,Signing Hands and Stuart B. Consultants, Inc., to fulfill the obligations of the contract.

**DATES:** Visual Language Interpreting and subcontractors, SigningHands and Stuart B. Consultants, Inc., will be given access to this information on or before August 6, 2001.

**FOR FURTHER INFORMATION CONTACT:** By mail: Erik R.Johnson, FIFRA Security Officer, Information Resources and Services Division (7502C), Officeof Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: (703) 305–7248; e-mail address:johnson.erik@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questionsregarding the applicability of this action to a particular entity, consult the person listed under FOR FURTHER INFORMATION CONTACT.

*B. How Can I Get Additional Information, Including Copies of this Document and OtherRelated Documents?*

You may obtain electronic copies of this document, and certain other relateddocuments that might be available electronically, from the EPA Internet Home Page athttp://www.epa.gov/. To access this document, on the Home Page select ''Laws andRegulations,'' ''Regulations and Proposed Rules,'' and then look up theentry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **FederalRegister** listings at http://www.epa.gov/fedrgstr/.

### II. Contractor Requirements

Under Contract No. 68–W9–9005/003, Visual Language Interpreting andsubcontractors, Signing Hands and Stuart B. Consultants, Inc., will perform the followingbased on the statement of work:

The Contractor shall furnish the necessary personnel, material, equipment, services, andfacilities to perform the statement of work specifications. This contract and other vehiclesprovides OPP with signlanguage support services for the hearing impaired/deaf personnel assigned to the office. Thesign language personnel will report to the EPA Headquarters Interpreting Coordinator, alsoidentified as the Project Officer under this contract, who will orient interpreters, assign work,monitor contractor performance and approve invoices per occurrence.

FIFRA CBI may be discussed during various meetings, seminars, and with other clearedemployees which would require the services of the sign language support services to interpretand sign to EPA hearing impaired/deaf personnel.

OPP has determined that access by Visual Language Interpreting andsubcontractors, Signing Hands and Stuart B. Consultants, Inc., to information on all pesticidechemicals is necessary for the performance of this contract.

Some of this information may be entitled to confidential treatment. The informationhas been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and409 of FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with VisualLanguage Interpreting and subcontractors, Signing Hands and Stuart B. Consultants Inc.,prohibits use of the information for any purpose not specified in the contract; prohibits disclosureof the information to a third party without prior written approval from the Agency; and requiresthat each official and employee of the contractor sign an agreement to protect the informationfrom unauthorized release and to handle it in accordance with the FIFRA Information SecurityManual. In addition, Visual Language Interpreting and subcontractors, Signing Hands andStuart B. Consultants, Inc., are required to submit for EPA approval a security plan underwhich any CBI will be secured and protected against unauthorized release or compromise. Noinformation will be provided to Visual Language Interpreting and subcontractors, SigningHands and Stuart B. Consultants, Inc., until the requirements in this document have beenfully satisfied. Records of information provided to Visual Language Interpreting andsubcontractors, Signing Hands and Stuart B. Consultants, Inc., will be maintained by EPAProject Officers for this contract. All information supplied to Visual Language Interpretingand subcontractors, Signing Hands and Stuart B. Consultants, Inc., by EPA for use inconnection with this contract will be returned to EPA when Visual Language Interpreting andsubcontractors, Signing Hands and Stuart B. Consultants, Inc., have completed their work.

**List of Subjects**

Environmental protection, Business and industry, Government contracts, Governmentproperty, Security measures.

Dated: July 23, 2001.

**Richard D. Schmitt,**

*Director, Information Resources and Services Division,Office of Pesticide Programs.*

[FR Doc. 01–19170 Filed 7–31–01; 8:45 am]

BILLING CODE 6560–50–S

## ENVIRONMENTAL PROTECTION AGENCY

**[OPP–34244; FRL–6789–9]**

## Pesticides; Availability of Risk Assessments

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the availability of risk assessments that were developed as part of EPA's process for making pesticide Reregistration Eligibility Decisions (REDs) and tolerance reassessments consistent with the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). These risk assessments are the human health and environmental fate and effects risk assessments and related documents for thiabendazole and salts. This notice also starts a 60–day public comment period for the risk assessments. By allowing access and opportunity for comment on the risk assessments, EPA is seeking to strengthen stakeholder involvement and help ensure decisions made under FQPA are transparent and based on the best available information. The tolerance reassessment process will ensure that the United States continues to have the safest and most abundant food supply.

**DATES:** Comments, identified by the docket control number OPP–34244 for thiabendazole and salts, must be received on or before October 1, 2001.

**ADDRESSES:** Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit II. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34244 for thiabendazole and salts in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** Lorilyn Montford, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8170; e-mail address: montford.lorilyn@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining the risk assessments for thiabendazole and salts, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. Since other entities also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

*B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?*

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. In addition, copies of the pesticide risk assessments released to the public may also be accessed at http://www.epa.gov/pesticides/reregistration/status.htm.

2. In person. The Agency has established an official record for this action under docket control numbers OPP–34244. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

### II. How Can I Respond to this Action?

*A. How and to Whom Do I Submit Comments?*

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number for the specific chemical of interest in the subject line on the first page of your response.

1. *By mail*. Submit comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver comments to: Public Information and Records Integrity Branch, Information Resources and Services Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. Submit electronic comments by e-mail to: opp-docket@epa.gov or you can submit a computer disk as described in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 6.1/8.0/9.0 or ASCII file format. All comments in electronic form must be identified by the docket control number of the chemical of specific interest. Electronic comments may also be filed online at many Federal Depository Libraries.

*B. How Should I Handle CBI Information that I Want to Submit to the Agency?*

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be

disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

### III. What Action is the Agency Taking?

EPA is making available to the public the risk assessments that have been developed as part of the Agency's interim public participation process for tolerance reassessment and reregistration. During the next 60 days, EPA will accept comments on the human health and environmental fate and effects risk assessments and other related documents for thiabendazole and salts, available in the individual pesticide docket. Like other REDs for pesticides developed under the interim process, the thiabendazole and salts RED will be made available for public comment.

EPA and USDA have been using a pilot public participation process for the assessment of organophosphate pesticides since August 1998. In considering how to accomplish the movement from the current pilot being used for the organophosphate pesticides to the public participation process that will be used in the future for non-organophosphates, such as thiabendazole and salts, EPA and USDA have adopted an interim public participation process. EPA is using this interim process in reviewing the non-organophosphate pesticides scheduled to complete tolerance reassessment and reregistration in 2001 and early 2002. The interim public participation process ensures public access to the Agency's risk assessments while also allowing EPA to meet its reregistration commitments. It takes into account that the risk assessment development work on these pesticides is substantially complete. The interim public participation process involves: A registrant error correction period; a period for the Agency to respond to the registrant's error correction comments; the release of the refined risk assessments and risk characterizations to the public via the docket and EPA's internet website; a significant effort on stakeholder consultations, such as meetings and conference calls; and the issuance of the risk management decision document (i.e., RED) after the consideration of issues and discussions with stakeholders. USDA plans to hold meetings and conference calls with the public (i.e., interested stakeholders such as growers, USDA Cooperative Extension Offices, commodity groups, and other Federal government agencies) to discuss any identified risks and solicit input on risk management strategies. EPA will participate in USDA's meetings and conference calls with the public. This feedback will be used to complete the risk management decisions and the RED. EPA plans to conduct a close-out conference call with interested stakeholders to describe the regulatory decisions presented in the RED. REDs for pesticides developed under the interim process will be made available for public comment.

Included in the public version of the official record are the Agency's risk assessments and related documents for thiabendazole and salts. As additional comments, reviews, and risk assessment modifications become available, these will also be docketed. The thiabendazole and salts risk assessments reflect only the work and analysis conducted as of the time they were produced and it is appropriate that, as new information becomes available and/or additional analyses are performed, the conclusions they contain may change.

### List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: June 26, 2001.

**Jack E. Housenger,**

*Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.*

[FR Doc. 01–19175 Filed 7–31–01; 8:45 am]

**BILLING CODE 6560–50–S**

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## ENVIRONMENTAL PROTECTION AGENCY

**[OPP–34225F; FRL–6792–1]**

## Diazinon; Receipt of Requests For Amendments, and Cancellations

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

**ACTION:** Notice.

**SUMMARY:** Several companies that manufacture diazinon O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate pesticide products have asked EPA to cancel or amend the registrations for their end-use products containing diazinon to delete all indoor uses, certain agricultural uses and certain outdoor non-agricultural uses. Pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is announcing the Agency's receipt of these requests. These requests for voluntary termination of the above mentioned uses through registration cancellations or amendments were submitted to EPA in May and June 2001. EPA intends to grant these requests by issuing a cancellation order at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of these requests. Upon the issuance of the cancellation order, any distribution, sale, or use of diazinon products listed in this Notice will only be permitted if such distribution, sale, or use is consistent with the terms of that order.

**DATES:** Comments on the requested amendments to delete uses and the requested registration cancellations must be submitted to the address provided below and identified by docket control number OPP–34225F. Comments must be received on or before August 31, 2001.

**ADDRESSES:** Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34225F in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** Ben Chambliss, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8174; fax number: (703) 308–7042; e-mail address: chambliss.ben@epa.gov.

**SUPPLEMENTARY INFORMATION:** This announcement consists of three parts. The first part contains general information. The second part addresses the registrants' requests for registration cancellations and amendments to delete uses. The third part proposes existing stocks provisions that will be set forth in the cancellation order that the Agency intends to issue at the close of the comment period for this announcement.

### I. General Information

*A. Does this Action Apply to Me?*

This action is directed to the public in general. You may be potentially

affected by this action if you manufacture, sell, distribute, or use diazinon products. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

*B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?*

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access information about the risk assessment for diazinon, go to the Home Page for the Office of Pesticide Programs or go directly http://www.epa.gov/pesticides/op/diazinon.htm.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–34225F. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

*C. How and to Whom Do I Submit Comments?*

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34225F in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–34225F. Electronic comments may also be filed online at many Federal Depository Libraries.

*D. How Should I Handle CBI that I Want to Submit to the Agency?*

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

*E. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

## II. Receipt of Requests to Cancel and Amend Registrations to Delete Uses

*A. Background*

In letters dated April 25 and May 29, 2001 from Prentiss Inc.; May 29, 2001 from Unicorn Laboratories; May 30, 2001 from Micro Flo Company; May 31, 2001 from Agriliance; June 1, 2001 from Micro Flo Company; and June 1, 2001 from Diall Chemical Company, Inc., these registrants of pesticide products containing diazinon requested that the registrations of their diazinon products be amended to terminate all indoor uses, certain agricultural uses, and any other uses that the registrants do not wish to maintain. The requests also included deletions of outdoor non-agricultural uses from the labeling of certain end-use products so that such products would be labeled for agricultural uses only. Similarly, in letters dated May 21, 2001 from Nu-Method Pest Control Products; May 22, 2001 from Lilly Miller Brands; and May 23, 2001 from Virbac Corporation, these three registrants requested voluntary cancellation of the registrations for their diazinon end-use products that bear directions for indoor use and/or certain outdoor non-agricultural uses, and any other uses that the registrants do not

wish to maintain. Pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is announcing the Agency's receipt of these requests.

These requested cancellations and amendments are consistent with the requests in December 2000 by the manufacturers of diazinon technical products, and EPA's approval of such requests, to terminate all indoor uses and certain agricultural uses from their diazinon product registrations because of EPA's concern with the potential exposure risk, especially to children, associated with diazinon containing products. The indoor uses and agricultural uses subject to cancellation are identified in List 1 below:

*List 1 of Uses to be Canceled*

*Indoor uses.* Pet collars, or inside any structure or vehicle, vessel, or aircraft or any enclosed area, and/or on any contents therein (except mushroom houses), including but not limited to food/feed handling establishments, greenhouses, schools, residences, commercial buildings, museums, sports facilities, stores, warehouses, and hospitals.

*Agricultural uses.* Alfalfa, bananas, Bermuda grass, dried beans, dried peas, celery, red chicory (radicchio), citrus, clover, coffee, cotton, cowpeas, cucumbers, dandelions, forestry (ground squirrel/rodent burrow dust stations for public health use), kiwi, lespedeza, parsley, parsnips, pastures, peppers, potatoes (Irish and sweet), sheep, sorghum, squash (winter and summer), rangeland, Swiss chard, tobacco, and turnips (roots and tops).

As mentioned above, the requests announced in this **Federal Register** notice also include registration cancellations and/or amendments to terminate certain uses that the registrants do not wish to maintain. The specific requests are identified in Tables 1 and 2 of this notice. Furthermore, this notice announces a request that was inadvertently omitted in EPA's May 30, 2001 **Federal Register** (66 FR 29310) (FRL–6785–2) notice announcing its receipt of a request dated May 17, 2001 by Drexel Chemical Co. (''Drexel''). In the May 30, 2001 notice, EPA announced that Drexel requested voluntary cancellations and/or amendments of its diazinon product registrations to terminate all indoor uses and certain agricultural uses, as identified in List 1 above. However, the Agency inadvertently omitted in that notice Drexel's request to delete outdoor non-agricultural uses from certain diazinon end-use products registrations so that such end-use products would only be labeled for agricultural uses only. The Agency hereby includes that part of Drexel's request in this notice.

EPA has begun the process of reviewing the requested amendments which cannot be finalized until the end of the public comment period and provided that no substantial comments need to be addressed. EPA also intends to grant the requested product and use cancellations by issuing a cancellation order at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of these requests.

*B. Requests for Voluntary Cancellation of End-Use Products*

Nu-Method Pest Control Products, Lilly Miller Brands and Virbac Corporation have submitted requests for voluntary cancellation of some of its registrations for end-use pesticide products containing diazinon. The end-use product registrations for which cancellation was requested are identified in the following Table 1.

TABLE 1.—END-USE PRODUCT REGISTRATION CANCELLATION REQUESTS

| Company | Registration No. | Product |
|---|---|---|
| Lilly Miller Brands | 802-444 | Miller's Multi-Use Diazinon Insect Spray |
| | 802-556 | Lilly Miller 5% Diazinon Granules |
| Virbac Corporation | 2382-94 | Protection 150 Reflecting Flea and Tick Collar for Cats |
| | 2382-95 | Protection Plus Flea and Tick Collar for Cats |
| | 2382-96 | Protection 150 Reflecting Flea and Tick Collar for Dogs |
| | 2382-97 | Protection Plus 150 Flea and Tick Collar for Dogs |
| | 2382-98 | Protection 150 Flea and Tick Collar for Cats |
| | 2382-99 | Protection 150 Flea and Tick Collar for Dogs |
| | 2382-105 | Protection 300 Flea and Tick Collar for Dogs |
| Nu-Method Pest Control Products, Inc. | 6911-5 | NU-MRK NU-Method Ant and Roach Killer |

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that EPA cancel any of their pesticide registrations. Section 6(f)(1)(B) of FIFRA requires that EPA provide a 30–day period in which the public may comment before the Agency may act on the request for voluntary cancellation. In addition, section 6(f)(1)(C) of FIFRA requires that EPA provide a 180–day comment period on a request for voluntary termination of any minor agricultural use before granting the request, unless: (1) The registrants request a waiver of the comment period, or (2) the Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment. In this case, all of the registrants have requested that EPA waive the 180–day comment period. In light of this request, EPA is granting the request to waive the 180-day comment period and is providing a 30-day public comment period before taking action on the requested cancellations. Because of risk concerns posed by certain uses of diazinon, EPA intends to grant the requested cancellations at the close of the comment period for this announcement unless the Agency receives any substantive comment within the comment period that would

merit its further review of these requests.

*C. Requests for Voluntary Amendments to Delete Uses From the Registrations of End-Use Products*

Pursuant to section 6(f)(1)(A) of FIFRA, the following companies have submitted a request to amend the registrations of their pesticide end-use products containing diazinon to delete certain uses from certain products. The following Table 2 identifies the registrants, the product registrations that they wish to amend, and the uses that they wish to delete through registrationamendments.

TABLE 2.—END-USE PRODUCT REGISTRATION AMENDMENT REQUESTS

| Company | Registration No. | Product Name: Use Deletions |
|---|---|---|
| Prentiss Inc. | 655-456 | Prentox Diazinon 50W Insecticide: Beans (lima, pole, snap; succulent only), Cucumbers, Parsley, Parsnips, Peas (succulent only), Peppers, Potatoes (Irish), Squash (summer and winter), Sweet Potatoes, Swiss Chard, Turnips, Grasslands, Ditch Banks, Roadsides, Wastelands, Non-CropAreas, Barrier Strips, Lawn Pest Control (excluding sod farms and golf courses), Livestock Insects (sheep ticks Keds and lice), Livestock Structures (fly control in barns and animal sleeping quarters except dairy barns, milk rooms and poultry houses), Residual Sprays, Bait Sprays, Sprinkling Can Application, and Insect Control on Ornamentals Grown Indoors in Nurseries. |
| | 655-459 | Prentox Diazinon AG500 Insecticide: Beans (lima, pole, snap; succulent only), Cucumbers, Parsley, Parsnips, Peas (succulent only), Peppers, Potatoes (Irish), Squash (summer and winter), Sweet Potatoes, Swiss Chard, Turnips, Grasslands, Ditch Banks, Roadsides, Wastelands, Non-Crop Areas, Barrier Strips, Lawn Pest Control, and Nuisance Pests in Outside Areas. |
| Agriliance | 9779-210 | Diazinon 4 AG: Beans, Cabbage, Cucumbers, Parsley, Parsnips, Peas, Peppers, Potatoes, Squash (summer and winter), Sweet Potatoes, Swiss Chard, Turnips, and Lawns/Other Outside Areas. |
| Drexel Chemical Company | 19713-91 | Diazinon Insecticide: Lawns (any turf sites), Barrier Strips, Ditch Banks, Non-Crop Areas, Roadsides, Wastelands, and Nuisance Pests in Outside Areas. |
| | 19713-492 | Diazinon 50 WP: Lawns (any turf sites), Barrier Strips, Ditch Banks, Non-Crop Areas, Roadsides, Wastelands, and Nuisance Pests in Outside Areas. |
| Unicorn Laboratories | 28293-199 | Unicorn Diazinon 5G Granules: Celery |
| | 28293-230 | Unicorn 25EC Diazinon: Almonds |
| | 28293-239 | Unicorn Diazinon 14G Granular Insecticide:Beans, Cabbage, Celery, Cucumbers, Parsley, Peas, Peppers, Potatoes,Squash, Sweet Potatoes, Swiss Chard, and Turnips |
| Diall Chemical Company, Inc. | 34822-6 | DI-ALL Paint Insecticide: Farm Buildings (including dairy barns and milk parlors), Warehouses, Office Buildings, Theaters, Schools, Hotels, Motels, Factories and Outbuildings. |
| Micro-Flo Company | 51036-70 | Diazinon 14 G: Beans, Parsley, Peppers, Irish Potatoes, Squash (winter and summer), Swiss Chard, and Turnips. |
| | 51036-71 | Diazinon AG 500: Beans, Parsley, Parsnips, Peppers, Potatoes (Irish), Squash (summer and winter), Swiss Chard, Turnips, Livestock Structures, and Lawns. |
| | 51036-93 | Diazinon 5G AG: Beans, Celery, Cucumber, Parsley, Peas, Peppers, Potatoes, Squash (summer and winter), Sweet Potatoes, Swiss Chard, and Turnips. |
| | 51036-108 | Diazinon 50 WP: Beans, Parsley, Parsnips, Peppers, Potatoes (Irish), Squash (summer and winter), Swiss Chard, Turnips, Livestock Structures, and Lawns. |

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that their pesticide registrations be amended to delete one or more pesticide uses. The aforementioned companies have requested to amend their registrations and have requested that EPA waive the 180–day comment period. In light of this request, EPA is granting the request

to waive the 180–day comment period and is providing a 30–day public comment period before taking action on the requested amendments to delete uses. Because of risk concerns posed by certain uses of diazinon, EPA intends to grant the requested amendments to delete uses at the close of the comment period for this announcement, unless the Agency receives any substantive comment within the comment period that would merit its further review of these requests.

### III. Proposed Existing Stocks Provisions

EPA received requests for voluntary cancellation of the diazinon registrations identified in Table 1 and requests for amendments to terminate certain uses of the diazinon registrations identified in Table 2. Pursuant to section 6(f) of FIFRA, EPA intends to grant these requests by issuing a cancellation order at the end of the 30–day comment period unless the Agency receives any substantive comment within the comment period that would merit its further review of these requests. In the event that EPA issues a cancellation order, EPA intends to include in that order the existing stocks provisions set forth in this section. For purposes of that cancellation order, the term ''existing stocks'' will be defined, pursuant to EPA's existing stocks policy (June 26, 1991, 56 FR 29362) (FRL–3846–4), as those stocks of a registered pesticide product which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation or amendment. Any distribution, sale, or use of existing stocks after the effective date of the cancellation order that the Agency intends to issue that is not consistent with the terms of that order will be considered a violation of section 12(a)(2)(K) and/or 12(a)(1)(A) of FIFRA.

*EPA Intends that the Cancellation Order Includes the Following Existing Stocks Provisions*

1. *Distribution or sale of products bearing instructions for use on agricultural crops.* The distribution or sale of existing stocks by the registrant of any product listed in Table 2 that bears instructions for use on the agricultural crops identified in List 1 will not be lawful under FIFRA 1 year after the effective date of the cancellation order. Persons other than the registrant may continue to sell or distribute the existing stocks of any product listed in Table 2 that bears instructions for any of the agricultural uses identified in List 1 after the effective date of the cancellation order.

2. *Distribution or sale of products bearing instructions for use on outdoor non-agricultural sites.* The distribution or sale of existing stocks by the registrant of any product listed in Table 1 or 2 that bears instructions for use on outdoor non-agricultural sites will not be lawful under FIFRA 1 year after the effective date of the cancellation order. Persons other than the registrant may continue to sell or distribute the existing stocks of any product listed in Table 1 or 2 that bears instructions for use on outdoor non-agricultural sites after the effective date of the cancellation order.

3. *Distribution or sale of products bearing instructions for use on indoor sites.* The distribution or sale of existing stocks by the registrant of any product listed in Table 1 or 2 that bears instructions for use at or on any indoor sites (except mushroom houses), shall not be lawful under FIFRA as of the effective date of the cancellation order.

4. *Retail and other distribution or sale of existing stock of products for indoor use.* The retail sale of existing stocks by any person other than the registrants of products listed in Table 1 or 2 bearing instructions for any indoor uses except mushroom houses will not be lawful under FIFRA after December 31, 2002.

5. *Use of existing stocks.* EPA intends to permit the use of existing stocks of products listed in Table 1 or 2 until such stocks are exhausted, provided such use is in accordance with the existing labeling of that product.

### List of Subjects

Environmental protection, Pesticides and pests.

Dated: July 19, 2001.

**Lois Rossi,**

*Director, Special Review and Reregistration Division, Office ofPesticide Programs.*

[FR Doc. 01–19174 Filed 7–31–01; 8:45 am]

**BILLING CODE 6560–50–S**

## ENVIRONMENTAL PROTECTION AGENCY

**[PF–1032; FRL–6789–2]**

## Notice of Filing a Pesticide Petition to Establish a Tolerance fora Certain Pesticide Chemical in or on Food

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

**DATES:** Comments, identified by docket control number PF–1032, must be received on or before August 31, 2001.

**ADDRESSES:** Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1032 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Cynthia Giles-Parker, Fungicide Branch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–7740; e-mail address: giles-parker.cynthia@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

| Categories | NAICS codes | Examples of potentially affected entities |
|---|---|---|
| Industry | 111<br>112<br>311<br>32532 | Crop production<br>Animal production<br>Food manufacturing<br>Pesticide manufacturing |

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?*

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this

document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number PF–1032. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

*C. How and to Whom Do I Submit Comments?*

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1032 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1032. Electronic comments may also be filed online at many Federal Depository Libraries.

*D. How Should I Handle CBI That I Want to Submit to the Agency?*

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

*E. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

## II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

### List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 13, 2001.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

### Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioners. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

### E.I. duPont de Nemours

*PP7E4847*

EPA has received a pesticide petition (PP7E4847) from E.I. duPont de Nemours and Company (Dupont, P.O. Box 80038, Wilmington, DE 19880–0038 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of famoxadone in or on the raw agricultural commodity grapes at 2.0 parts per million and raisins at 4 parts per million (ppm). EPA has determined that the 4 ppm petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of

the petition. Additional data may be needed before EPA rules on the petition.

*A. Residue Chemistry*

1. *Plant metabolism*. The plant metabolism of famoxadone is adequately understood in three distinct crops to support these tolerances: Tomatoes, potatoes and grapes. These studies showed no significant metabolites (all < 10%TRR) in the raw agricultural commodities (tubers,tomato fruit, grape berries). The only significant residue in any of the studies was the parent compound, famoxadone, occurring primarily as surface residues (grape berries and tomato fruit). No residues were detected in potato tubers. Thus, the proposed tolerance expression is for the parent compound, famoxadone (DPX–JE874) only.

2. *Analytical method.* An analytical enforcement method is available for determining famoxadone plant residues in or on grapes, raisins, potatoes, cucurbit vegetables (cucumbers, melons and squash), fruiting vegetables (tomatoes, peppers), and head lettuce using gas-liquidchromatography (GC) with nitrogen phosphorus detection (NPD). The method is applicable to high and medium moisture, oily and non-oily crops and related matrices. The limit of quantitation is 0.02 ppm. The limit of quantitation allows monitoring of crops with famoxadone residues at or above the levels proposed in these tolerances.

3. *Magnitude of residues — grapes and raisins.* Results from magnitude of residue and residue decline studies conducted on grapes in major European producing and exporting regions support the grape tolerance of 2.0 ppm. The mean residue value was 0.61 ppm +/− 0.38 ppm with a range of 0.07 to 2.14 ppm.

No residues were detected in juice or wine fractions upon processing or fermentation of grapes treated with exaggerated rates of famoxadone. The limit of quantitation was 0.02 ppm. Residues did concentrate by a factor of 1.9X in raisins, thus supporting a tolerance of4.0 ppm.

*B. Toxicological Profile*

1. *Acute toxicity*. A battery of acute toxicity tests with technical famoxadone places it in the following Toxicity Categories:

| Study Type | Species | Results | Toixcity Category |
|---|---|---|---|
| Oral $LD_{50}$ | Rat | > 5,000 mg/kg | Category IV |
| Dermal $LD_{50}$ | Rabbit | >2,000 mg/kg | Category III |
| Inhalation $LC_{50}$ | Rat | >5.3 mg/L | Category IV |
| Eye irritation | Rabbit | Transient redness; clear by 72 hours | Category III |
| Dermal irritation | Rabbit | Minimal irritation at 72 hours | Category IV |
| Dermal sensitization | Guinea pig | Not a sensitizer | |

In an acute neurotoxicity test, famoxadone was not neurotoxic to rats. The NOAEL was 1,000 milligams/kilogram (mg/kg) in males, based on systemic toxicity at 2,000 mg/kg. The NOAEL in females was 2,000 mg/kg, the highest dose tested (HDT).

2. *Genotoxicity*. Famoxadone was tested in a battery of assays to evaluate genotoxicity and chromosome aberrations with the following results. Based on the weight-of-evidence, famoxadone is not considered to be genotoxic or clastogenic.

| | | |
|---|---|---|
| Bacterial genemutation | *Salmonella* and *E. Coli* | Negative |
| Mammalian gene mutation *in vitro* | CHO/HGPRT | Negative |
| Mammalian chromosome aberrations *in vitro* | CHO | Positive without activation Negative with activation |
| Mammalian chromosome aberrations *in vivo* | Mouse micronucleus | Negative |
| Unscheduled DNA synthesis *in vitro* | Primary rat hepatocytes | Negative |
| Unscheduled DNA synthesis *in vivo* | Primary rat hepatocytes | Negative |

3. *Reproductive and developmental toxicity*. The results of a series of studies indicated that there were no reproductive, developmental or teratogenic hazards associated with famoxadone.

In a 2–generation rat reproduction study, the NOAEL for both adults and offspring was 200 ppm (11.3–17.5 mg/kg/day depending on gender and generation) based on clinical signs, decreased body weights, effects on nutritional parameters, and liver toxicity in adults and decreased weight of pups. Effects on pups occurred only at a maternal effect level and may have been due to altered growth and nutrition in the dams. There were no effects on reproduction (mating, fertility, and reproductive organs) up to and including the highest concentration tested, 800 ppm (44.7–71.8 mg/kg/day).

In studies conducted to evaluate developmental toxicity potential, famoxadone was neither teratogenic nor uniquely toxic to the conceptus. In a rat developmental toxicity study, the maternal NOAEL was 250 mg/kg/day based on decreased weight gain and food consumption at 500 mg/kg/day. The fetal NOAEL was 1,000 mg/kg/day, the HDT. In rabbits, NOAEL for compound-related systemic toxicity was 1,000 mg/kg/day. There were no developmental effects at any dose level. Several rabbits had weight loss, decreased food consumption, clinical signs, fecal impactions and subsequent abortion at 1,000 mg/kg/day. These effects were considered due to the physical properties of the dosing solution rather than systemic toxicity. Often fecal impaction preceded abortions.

4. *Subchronic toxicity*. Subchronic (90–day) feeding studies were conducted with rats, mice, and dogs. In addition, the following subchronic feeding studies were conducted: A 90–day in rats to evaluate neurotoxicity and 28–day feeding studies in rats and mice to evaluate immunotoxicity. A 28–day dermal study was conducted in rats.

In a 90–day feeding study in rats, the NOAEL was considered to be 200 ppm (13 and 17 mg/kg/day) based on mild hepatotoxicity and mild regenerative hemolytic anemia in both sexes and decreased body weight in females at 800 ppm (52 and 66 mg/kg/day, in males and females respectively) and higher. An effect on weight gain in female rats at 17 mg/kg/day was considered spurious since it was not duplicated in any other rat studies including those of thesame or longer duration.

In a subchronic neurotoxicity study in rats, there was no evidence of neurotoxicity up to and including the highest concentration tested, 800 ppm (46.9 and 59.3 mg/kg/day for males and females, respectively). The NOAEL for systemic toxicity was 200 ppm (11.7 and 14.4 mg/kg/day in males and females, respectively) based on body weight and nutritional effectsat 800 ppm.

In mice, the subchronic NOAEL was 350 ppm (62.4 and 79.4 mg/kg/day in males and females, respectively), based on hepatotoxicity and mild anemic effects at higher concentrations.

In a 90–day feeding study in dogs, the NOAEL was 40 ppm (1.3 mg/kg/day) in males. In females, 40 ppm (1.4 mg/kg/day) was a marginal effect level for lens lesions. At 300 ppm, lens lesions were observed in males and females upon ophthalmologic exam and confirmed by histopathology. These lesions were not considered relevant to human health and to acute risk assessment, since they did not occur in a 1–year primate study. Excluding lens lesions, the NOAEL was 300 ppm (10.0 and 10.1 mg/kg/day in males and females, respectively), based upon effects on body weight and food consumption, hemolytic anemia, and hyperkalemia with associated clinical signs at 1000/600 ppm (23.8/21.2 and 23.3/20.1 mg/kg/day in males and females, respectively). The test concentration was lowered to 600 ppm after 5.3 weeks because of the signs related to hyperkalemia.

Famoxadone was tested in 28–day feeding studies in rats and mice, designed to evaluate immunotoxicity. The NOAEL in rats was 200 ppm (14 and 16 mg/kg/day in males and females, respectively) based on decreased body weight, body weight gain, food consumption, food efficiency, and increased spleen weights at 800 ppm (55 and 57 mg/kg/day for male and females, respectively). There was no effect in response to sheep red blood cell (SRBC) challenge at any concentration tested. In mice, the NOAEL was 2,000 ppm (327 and 417 mg/kg/day in males and females, respectively) based onincreased spleen weights and a minimal decrease in humoral response to SRBC. Famoxadone is not considered immunotoxic in rats and produced equivocal evidence of immunotoxicity in mice.

In a 28–day repeated dose dermal study, the NOAEL for male rates was 250 mg/kg/day based on changes in liver enzymes at 500 mg/kg/day. The NOAEL for female rats was 1,000 mg/kg/day, the HDT.

5. *Chronic toxicity*. Chronic studies with famoxadone were conducted on rats, mice, dogs and monkeys to determine oncogenic potential and/or chronic toxicity of the compound. Effects generally similar to those observed in the 90–day studies were seen in the chronic studies. Famoxadone was not oncogenic.

Famoxadone was not oncogenic in rats. The chronic NOAEL was 200 ppm (8.4 and 10.7 mg/kg/day in males and females, respectively) based on hepatotoxicity and anemia in both sexes and decreased body weight, body weight gain, and food efficiency in females at 400 ppm (16.8 and 23.0 mg/kg/day in males and females, respectively).

In mice, the chronic NOAEL was 700 ppm (95.6 and 130 mg/kg/day for males and females, respectively) based on hepatotoxicity in males and females and amyloidosis in females at 2,000 ppm (274 and 392 mg/kg/day in males and females, respectively). Famoxadone was not oncogenic in mice.

In a 1–year feeding study in dogs, the only effect observed was lens lesions at 300 ppm (8.8 and 9.3 mg/kg/day for males and females). The NOAEL for these lesions was 40 ppm (1.2 mg/kg/day in both sexes). Use of this NOAEL is considered very conservative since these lesions are not considered appropriate to human risk assessment based on the absence of this effect in a primate study.

In a 1–year gavage study, the NOAEL in cynomolgus monkeys was 100 mg/kg/day in both males and female based on slight hemolytic anemia in both sexes at the 1,000 mg/kg/day dose level. There were no other effects observed at any level.

6. *Animal metabolism*. Famoxadone was rapidly eliminated in the rat, primarily by fecal excretion and to a lesser extent in the urine. Absorption and metabolism of famoxadone was limited. There was no accumulation in organs or tissues. Parent famoxadone was the major component recovered. Hydroxylated parent compound and sulfated cleavage products were also recovered to a much lesser extent.

7. *Metabolite toxicology*. There are no metabolites of toxicological significance to mammals.

8. *Endocrine disruption*. Chronic, lifespan, and multigenerational bioassays in mammals and acute andsubchronic studies on aquatic organisms and wildlife did not reveal endocrine effects. Any endocrine related effects would have been detected in this definitive array of required tests. The probability of any such effect due to agricultural uses of famoxadone is negligible.

*C. Aggregate Exposure*

1. *Dietary exposure*. Famoxadone is a new fungicide with proposed uses on the commercial crops: Fruiting vegetables (tomatoes and peppers), cucurbit vegetables (cucumbers, melons and squash), head lettuce, potatoes and imported grapes. There are no residential uses for the famoxadone-containing fungicide.

i. *Food*. The chronic RfD of 0.012 mg/kg/day is based on a NOAEL of 1.2 mg/kg/day for lens lesions from a 1–year dog feeding study and an uncertainty factor of 100. This is considered highly conservative because these lesions were not produced in a chronic monkey study. The acute NOAEL of 10.0 mg/kg bw/day is based upon body weight effects occurring early in a 90–day dog study. Since body weight is not actually an acute effect, the acute NOAEL selected is highly conservative and it is likely that the actual acute NOAEL is much higher than 10.0 mg/kg/day.

a. *Chronic dietary exposure assessment*. Chronic dietary exposure, resulting from all of the proposed uses of famoxadone, cucurbit vegetables, fruiting vegetables, head lettuce, potatoes, and imported grapes, is well within acceptable limits for all sectors of the population. The Chronic Module of the Dietary Exposure Evaluation Model (DEEM, Novigen Sciences, Inc., 1998 Version 6.4 (chronic) and 6.54 (acute)) was used to conduct the assessment with the anticipated reference dose (RfD) of 0.012 mg/kg/day. The analysis employed overall-mean field-trial values and conservatively assumed that 30% of the crops on the proposed label plus imported grapes would be treated with famoxadone.

For the general U.S. population, the estimated chronic dietary exposure to famoxadone is 0.000335 mg/kg/day, and utilizes 2.8% of the chronic RfD. The exposure for the potentially most highly exposed subgroup in the population, children 1–6 years, is 0.000487 mg/kg/day or 4.1% of the chronic RfD. The table below lists the results of this analysis, which indicate large margins of exposure for each population subgroup and very low probability of effects resulting from chronic exposure to famoxadone. Since the RfDs are well below 100%, the chronic dietary safety of famoxadone clearly meets the FQPA standard of reasonable certainty of no harm.

RESULTS OF CHRONIC DIETARY EXPOSURE ESTIMATE

| Population Group | Maximum Dietary Exposure (mg/kg/day) | % RfD |
|---|---|---|
| U.S. Population | 0.000335 | 2.8 |
| Non-Nursing Infants (<1 year) | 0.000111 | 0.9 |
| Children (1–6 years) | 0.000487 | 4.1 |
| Children (7–12 years) | 0.000391 | 3.3 |
| Females (13+ years) | 0.000430 | 3.6 |

b. *Acute dietary exposure*. The acute dietary exposure to famoxadone (99th percentile) is 0.001848 mg/kg/day, or 1.85% acute RfD for the overall U.S. population. The exposure (99th percentile) of the most highly exposed subgroup in the population, children 1–6 years, is 0.002559 mg/kg/day or 2.56% aRfD. The results of this analysis are given in the table below. All of the results are extremely reassuring, because they are based on several very conservative assumptions. Foods that were considered in exposure estimates were cucurbit vegetables, fruiting vegetables, head lettuce, imported grapes, and potatoes. Since the% aRfDs are well below 100%, the acute dietary safety of famoxadone clearly meets the FQPA standard of reasonable certainty of no harm.

RESULTS OF ACUTE DIETARY EXPOSURE ESTIMATE

| Population group | 99TH Percentile of expsure | | 99.9TH Percentile of expsure | |
|---|---|---|---|---|
| | Exposure (mg/kg/day) | % RfD | Exposure (mg/kg/day) | % RfD |
| U.S. Population | 0.001848 | 1.85 | 0.006128 | 6.13 |
| Non-Nursing (<1 year) | 0.000949 | 0.95 | 0.003667 | 3.67 |
| Children (1–6 years) | 0.002559 | 2.56 | 0.008944 | 8.94 |
| Children (7–12 years) | 0.002002 | 2.00 | 0.007364 | 7.36 |
| Females (13–50 years) | 0.001843 | 1.84 | 0.006072 | 6.07 |

ii. *Drinking water*. Famoxadone is highly unlikely to contaminate groundwater resources due to its immobility in soil, low water solubility, high soil sorption, moderate soil half-life, and resulting low ground and surface water exposure. Both acute and chronic drinking water exposure analyses were calculated using EPA screening models (SCI-GROW for groundwater and GENEEC for surface water). Results indicate that a reasonable certainty exists that famoxadone residues will not contribute significantly to the aggregate acute and chronic human risk. The predicted concentration for famoxadone in groundwater under worst case conditions was 0.0097 parts per billion (ppb). The predicted peak concentration for famoxadone in surface water in a small non-flowing pond, directly adjacent to treated fields (aerial application at the maximum rate), was 2.49 ppb. The 56–day average concentration predicted for the same pond scenario was 0.05 ppb. The EPA uses drinking water levels of comparison (DWLOCS) as a surrogate measure to capture risk associated with exposure to pesticides in drinking water. The DWLOC is the concentration of a pesticide in drinking water that would be acceptable as an upper limit in light of total aggregate exposure to that pesticide from food, water and residential uses. A DWLOC will vary depending on the residue level in foods, the toxicity endpoint, drinking water consumption patterns, and body weights for specific subpopulations. The chronic DWLOCs are 0.41 ppm for the U.S. population and 0.12 ppm for the most exposed population subgroup, children (1–6 years). The DWLOCs are substantially higher than the GENEEC 56–day estimated environmental concentration of 0.05 ppb for famoxadone in surface water or the Sci-Grow estimate of 0.0097 ppb famoxadone in ground water. Therefore, since the estimated famoxadone concentrations are well below the chronic DWLOCs, the chronic dietary safety of famoxadone residues from drinking water clearly meets the FQPA standard of reasonable certainty of no harm. Using the appropriate inputs, the acute DWLOCs are 3.3 parts per million (ppm) for the U.S. population, and 0.91 ppm for the most exposed population subgroup, children (1–6 years). The estimated maximum concentration of famoxadone in surface water (2.49 ppb, derived from GENEEC) or in groundwater (0.0097 ppb, derived from Sci-Grow) is much lower than the acute DWLOC. Since the estimated famoxadone concentrations in ground and surface water are well below acute DWLOCs, the acute dietary safety of famoxadone residues from drinking water clearly meets the FQPA standard of reasonable certainty of no harm.

2. *Non-dietary exposure*. Famoxadone products are not labeled for residential non-food uses, thereby eliminating the potential for residential exposure. Non-occupational, non-dietary exposure for famoxadone has not been estimated because the proposed products are limited to commercial crop production. Therefore, the potential for non-occupational exposure is insignificant.

*D. Cumulative Effects*

EPA's consideration of a common mechanism of toxicity is not necessary at this time because there is no indication that toxic effects of famoxadone should be cumulative with those of any other chemical. Famoxadone is a member of a new class of fungicides that acts by inhibition of mitochondrial respiration. Famoxadone's biochemical mode of action on fungi and toxicological profile in animals appear to be unique. Given the distinct chemical, biological and toxicological profile, famoxadone's low acute toxicity, absence of genotoxic, oncogenic, developmental or reproductive effects and low exposure potential, the expression of cumulative human health effects with any other natural or synthetic pesticide is not anticipated.

*E. Safety Determination*

1. *U.S. population*. Dietary and occupational exposure will be the major routes of exposure to the U.S. population. Ample margins of safety have been demonstrated for both situations. For the U.S. population, the chronic dietary exposure to famoxadone from all proposed uses is 0.000335 mg/kg/day, which utilizes 2.8% of the RfD for the overall U.S. population, assuming 30% of the crops are treated. The acute dietary exposure to the U.S. population is 0.001848 mg/kg/day (99th percentile) or 1.85% of the aRFD (99th percentile). At the 99th percentile, the acute dietary exposure for the U.S. population is 0.006128 mg/kg/day or 6.13% of the aRfD.

Using only PHED data levels A and B (those with a high level of confidence), the margin of exposures (MOEs) for occupational exposure are 2,665 to 5,329 for mixer/loaders, 34,418 for aerial applicators, and 1,096 for ground applicators. For flaggers, the MOE is 13,500. Based on the completeness and reliability of the toxicity data and the conservative exposure assessments, there is a reasonable certainty that no harm will result from the aggregate exposure of residues of famoxadone including all anticipated dietary

exposure and all other non-occupational exposures.

2. *Infants and children*. Chronic dietary exposure of the most highly exposed subgroup in the population, children 1–6, is 0.000487 mg/kg/day or 4.1% of the RfD. The acute dietary exposure of the most exposed subgroup, children 1–6, is 2.56% of the aRfD (99th percentile). For non-nursing infants (< 1 year), the acute dietary exposure is 0.95% RfD (99th percentile).

There are no residential uses of famoxadone and contamination of drinking water is extremely unlikely. Based on the completeness and reliability of the toxicity data, the lack of toxicological endpoints of special concern, the lack of any indication of greater sensitivity of children, and the conservative exposure assessment, there is a reasonable certainty that no harm will result to infants and children from the aggregate exposure to residues of famoxadone from all anticipated sources of dietary and non-occupational exposure. Accordingly, there is no need to apply an additional safety factor for infants and children.

*F. International Tolerances*

To date, no Codex, Canadian, or Mexican tolerances exist for famoxadone.

[FR Doc.01–19169 File7–31–01;8:45 am]

BILLING CODE 6560–50–S

## ENVIRONMENTAL PROTECTION AGENCY

**[OPP–00723; FRL–6787–4]**

## Combined Chronic Toxicity/ Carcinogenicity Testing of Respirable Fibrous Particle Final Test Guideline; Notice of Availability

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

**ACTION:** Notice of availability.

**SUMMARY:** EPA has established a unified library for test guidelines issued by the Office of Prevention, Pesticides and Toxic Substances (OPPTS) for use in testing chemical substances to develop data for submission to EPA under the Toxic Substances Control Act (TSCA), the Federal Food, Drug, and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). These test guidelines represent an Agency effort that began in 1991 to harmonize the test guidelines within OPPTS, as well as to harmonize the OPPTS test guidelines with those of the Organization for Economic Cooperation and Development (OECD). The process for developing and amending these test guidelines includes public participation and the extensive involvement of the scientific community, including peer review by the Scientific Advisory Panel (SAP) and the Scientific Advisory Board (SAB) and other expert scientific organizations. With this notice, EPA is announcing the availability of the final test guideline for OPPTS 870.8355 Combined Chronic Toxicity/ Carcinogenicity Testing of Respirable Fibrous Particles.

**FOR FURTHER INFORMATION CONTACT:** Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who are or may be required to conduct testing of chemical substances under TSCA, FFDCA, or FIFRA, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person under **FOR FURTHER INFORMATION CONTACT**.

### II. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. You may also obtain copies of test guidelines from the EPA Internet Home Page at http://www.epa.gov/opptsfrs/home/guidelin.htm.

2. *In person*. The Agency has established an official record for this final guideline under docket control number OPP–00723. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm.119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

### III. What Action is EPA Taking?

EPA is announcing the availability of the final test guideline for OPPTS 870.8355 Combined Chronic Toxicity/ Carcinogenicity Testing of Respirable Fibrous Particles.

EPA recognizes that the current health effects test guidelines for chronic inhalation toxicity and/or carcinogenicity studies on chemicals are not specific enough for the testing of fibrous substances. These guidelines have to be modified to take into account testing issues which are unique to fibrous particles. Although a number of test systems and/or protocols have been utilized by the scientific community for evaluating the fibrogenic and carcinogenic potential of fibrous particles, there has been considerable debate about the scientific validity and utility of available test methods. Thus, there is a need for EPA to develop a standardized health effects test guideline for fibrous substances that can be used by EPA in future rulemaking, negotiated enforceable consent agreements, or voluntary action to obtain the necessary toxicologic information for risk assessment purposes.

The objective of this combined chronic toxicity/carcinogenicity testing of respirable fibrous particles is to determine the effects of a fibrous substance identified to be of potential health concern in at least a rodent species following prolonged and repeated inhalation exposure. The application of this guideline should generate data which identify the majority of chronic toxic and carcinogenic effects and determine dose-response relationships.

EPA recognizes concerns have been expressed about data development using animal models. While no comments were received from the animal advocacy

community, it is important to note that EPA is committed to avoiding unnecessary or duplicative animal testing. As part of this commitment, the Agency plays an important role in the Federal Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) (http://iccvam.niehs.nih.gov/ home.htm) whose goals are: (1) To encourage the reduction of the number of animals used in testing; (2) to seek opportunities to replace test methods requiring animals with alternative test methods when acceptable alternative methods are available; and (3) to refine existing test methods to optimize animal use when there is no substitute for animal testing. Further, where testing is needed to develop scientifically adequate data, the Agency is committed to reducing the number of animals used for testing, including, whenever possible, by incorporating *in vitro* (non-animal) test methods or other alternative approaches that have been scientifically validated and have received regulatory acceptance. EPA considers these goals and commitments to be important considerations in developing health effects data; however, they must be balanced with the essential need to conduct scientifically sound chemical hazard/risk assessments in support of the Agency's mission to protect human health and the environment studies.

**IV. Response to Public Comments**

In the notice of availability for the proposed test guideline published in the **Federal Register** of July 28, 1999 (64 FR 40871) (FRL–6078–6), EPA requested comments from the public on the proposed test guideline which was developed using the current EPA/OPPTS health effects test guideline for combined chronic toxicity and carcinogenicity (Ref. 1) as a template and based on the comments and recommendations made by a 1995 Workshop Panel on a number of scientific issues specific for fiber testing (Refs. 2 and 4). A number of comments on various issues related to the test substance and the study design were received from three U.S. fiber manufacturer associations, a European fiber industry association, a U.S. Government agency, a U.S. consultant, and a European scientist. All public comments were evaluated and a revised draft guideline with some of the public comments incorporated was prepared. At an EPA FIFRA SAP meeting on September 26, 2000, the draft guideline as well as a number of issues raised by the public commenters were reviewed and evaluated by the SAP. In addition to providing EPA with comments on the draft guideline, the SAP provided EPA an opinion on a number of issues raised by the public commenters (Ref. 3). Following are the major public comments received and EPA's responses to these comments.

*Comment 1.* A number of commenters expressed that with the recent development of short-term *in vitro* and *in vivo* assay systems for predicting the biopersistence and toxicity of fibers, it is frequently possible to make informed statements about the likely hazard and risk posed by a fiber. Therefore, EPA should make use of these new developments and consider a tiered testing approach; the circumstances under which long-term rodent inhalation studies of a fiber are required should be specified in the guideline.

*Response.* In the 1995 Workshop, the panel had identified a number of *in vitro* and *in vivo* short-term screening tests that could be used to develop a minimum data set for making decisions about the potential health hazards of fibers and for prioritizing the need for further testing in a chronic inhalation study. EPA is aware of the recent development of short-term *in vitro* and *in vivo* assay systems for predicting the biopersistence and toxicity of fibers and has initiated a plan to develop a tiered testing approach for identifying potential hazardous fibers for long-term inhalation studies. In response to this comment, the following statement indicating the use of short-term tests to identify potential hazardous fibers for long-term inhalation studies has been added in the ''Purpose'' paragraph of the guideline: ''The fibrous substances to be tested under this guideline will be selected based on data from appropriate short-term screening tests indicative of potential health hazard and risk concern.''

*Comment 2.* A commenter indicated that there are no verified reports showing evidence of serious adverse health effects caused by organic fibers in either occupational or consumer settings and suggested that EPA should expressly exclude organic fibers from the guideline.

*Response.* As indicated in the response to comment 1, a fibrous substance will be tested for chronic toxicity/carcinogenicity under this guideline only if it is identified to be of potential human health concern. The SAP believed that the guideline will have application to testing of some organic fibers. Since the guideline was derived primarily from experience with inorganic fibers and there are differences between organic and inorganic fibers, the following statement has been added to the test guideline as recommended by the SAP: ''While the guideline will have application to testing of organic fibers, additional considerations may be necessary for study of organic fibers.''

*Comment 3.* A couple of commenters expressed that it would be very inefficient for the industry to have to conduct more than one study in order to satisfy regulatory guidelines in both Europe and the United States and suggested that EPA should work closely with the Organization for Economic Cooperation and Development (OECD) to develop a harmonized testing guideline for the chronic toxicity and carcinogenicity of fibers.

*Response.* The EPA fiber testing guideline was developed based largely on the recommendations made by a panel of international experts. There are fundamental differences in the purpose and objective of long-term toxicity tests in Europe and the United States. In Europe, the primary purpose of the tests is to collect data for hazard identification while the United States requires the data for both hazard identification and dose-response assessment. Nonetheless, in the development of the EPA fiber testing guideline, attempts have been made to harmonize with available OECD guidelines to the extent possible.

*Comment 4.* This comment deals with the definition and criteria of test materials suitable for rat inhalation studies. The guideline specifies that for rat inhalation studies, the fiber samples used should be rat-respirable. A rat-respirable fiber is defined as a fiber with an aspect ratio of at least 3:1 and an aerodynamic diameter of less than 3 μm. A comment suggested that the definition of a ''rat-respirable fiber'' should be modified to be ''a fiber with a geometric mean diameter (GMD) ≤0.8 μm'' since actual measurement of the aerodynamic diameter of fibrous materials by traditional sampling techniques is not always reliable.

*Response.* The definition of fibers is adopted from the recommendation of a Workshop Panel and is widely accepted in the field. The Workshop Panel recommended that respirability should be defined on the basis of experimental data, rather than calculated data. For many types of fibers, what reaches the rat lung has been well characterized; an upper limit of 3 μm aerodynamic diameter is deemed effective in capturing rat-respirable fibers. The guideline defines a ''rat-respirable fiber'' using the aerodynamic diameter rather than the geometric diameter because the aerodynamic diameter (and not the geometric diameter) is the major determinant for the respirability of

fibrous particles. The SAP also concluded that a definition of ''rat-respirable fiber'' as having an aerodynamic diameter of 3 μm would be preferable to a definition of GMD of ≤ 0.8 μm.

*Comment 5.* In the definition section of the guideline, the ''concentration'' of fibrous particles was expressed as the absolute number of fibers/cc. A comment suggested that ''Aerosol concentration should also be expressed as the total number of WHO f/cc.'' A WHO (World Health Organization) fiber is a fiber with a diameter < 3 μm and a length > 5 μm.

*Response.* On this issue, the SAP concluded that the definition of concentration of fibrous particles should start with the absolute number of fibers/cc. However, it emphasized that exposure concentrations should also be expressed as WHO fibers/cc as well as fibers greater than 20 μm/cc and smaller size categories. Accordingly, the following statement has been added into this final test guideline: ''Exposure concentrations should also be expressed by fiber length, e.g., WHO fibers (greater than 5 μm in length)/cc, fibers with length greater than 10, 15 and 20 μm/cc.

*Comment 6.* There are a couple of comments on the selection of animal species for fiber testings. A commenter expressed that the rat inhalation model is not sensitive enough to reliably predict the cancer risk of fibers for human. The basis of the argument is that to cause similar risks from asbestos by chronic inhalation experiments with rats, the fiber concentration per milliliter (mL) measured with the same method as in the workplace atmosphere has to be about 100 times higher. Another commenter felt that although the hamster is capable of maximizing the number of mesotheliomas that may be induced by a fiber, the cost of such information outweighs its usefulness, and that the use of the model is controversial because hamsters are unusually sensitive to the development of mesothelioma.

*Response.* The rat bioassay model has proven to be a fairly good predictor of carcinogenic potential of fibers in humans. Both the Workshop Panel and the SAP concluded that for identifying the carcinogenic potential of fibers via the inhalation route, the rat is clearly the species of choice because of its susceptibility to fiber-induced pulmonary fibrosis, lung neoplasms and mesothelioma. While the rat model is quite effective at identifying the carcinogenic potential of fibers, as the commenter pointed out, it is of less value as a measure of carcinogenic potency. EPA uses testing not only for qualitative determination of carcinogenic potential, but also for quantitative risk assessment, and has historically required the use of two species. Although only the rat model has a sufficient database to be recommended for inhalation exposure studies with fibers, both the Workshop Panel and the SAP expressed that the hamster could be used if mesothelioma was the endpoint of interest because the hamster is more sensitive than the rat for this endpoint. However, the panels commented that the use of the hamster should not be a mandatory requirement because the hamster does not seem to develop lung tumors and lifetime hamster studies are fraught with technical problems. Hence, regarding animal species selection, the final test guideline recommends the rat to be the first species used and since the hamster is more sensitive than the rat with respect of fiber-induced mesothelioma, the hamster should be considered as a second species when results of the rat study show pleural toxicity or neoplasms and dose response data are needed for risk assessment purposes.

*Comment 7.* A number of commenters expressed opinions that: ''The use of both sexes of rats does not appear warranted, either in expense or the use of additional animals; male and female rats do not appear to differ in their response to the pathogenic effects of fibers.''

*Response.* It is true that presently, there is no evidence of a sex difference in response to inhaled fibers, in contrast to non-fibrous particles where female rats appear to be more sensitive (thus a single sex is adequate). As a commenter of the previous comment (comment 6) pointed out, the rat appears to be less sensitive than the human (with regard to tumorigenesis of asbestos), and this provides another reason for using both sexes since the use of both sexes would increase the total number of animals (typically from 50 to 100) and thus the sensitivity of the chronic bioassay. On this issue, the Workshop Panel concluded that testing in both sexes should be encouraged. Most of the SAP members also felt that both sexes of rats should be required for the chronic toxicity and carcinogenicity testing of fibers. Therefore, the final guideline maintains that ''Equal numbers of animals of each sex should be used at each dose level.''

*Comment 8.* There are a few comments on the characterization of the exposure aerosol. For instance, one commenter suggested that: ''The system used to generate fibrous aerosols must not cause significant breakage and contamination of the test substance.'' Another commenter suggested to change the sizes of fibers required to be enriched in the exposure aerosol fibers to maximize the sensitivity of animal inhalation exposure studies: ''An exposure aerosol should be enriched with the following fiber size fractions: rat respirable fibers with an aspect ratio of at least 3:1 and an aerodynamic diameter less than 2.4 μm, and include an appropriate number of fibers with lengths of at least 15 μm.''

*Response.* The final test guideline has adopted the suggestion from the commenter that ''The system used to generate fibrous aerosols must not cause significant breakage and contamination of the test substance.'' Further, it specifies that: ''During the development of the generating system, fiber/particle size analysis should be performed to establish the stability of aerosol concentrations with respect to fiber size.'' With regard to the fibers to be enriched in the exposure aerosol to maximize the sensitivity of animal inhalation exposure studies, the guideline first specifies that the aerosol should be characterized in terms of fiber and non-fiber/particle size and number; the number of fiber should be expressed by fiber length, e.g., WHO fibers (greater than 5 μm in length), fibers greater than 10, 15 and 20 μm in length. It is realized that different fiber types may have different size characteristics and it may not always be feasible to generate long, thin fibers (e.g., longer that 20 μm, thinner than 1 μm) as was specified in the draft guideline. Therefore, the final test guideline no longer specifies the fiber size requirement and simply states that: ''The test material should consist of rat-respirable fibers which should be enriched with the most potent fraction of long, thin fibers or fibers with high aspect ratios. ..... If enriching the test aerosol with long, thin fibers is not feasible, the reasons should be clearly stated and justified, and the enrichment should be for the longest fibers or fibers with the highest aspect ratios available.''

*Comment 9.* This comment relates to the selection of the highest fiber concentration level, known as the Maximal Aerosol Concentration or MAC, to be tested in a chronic inhalation exposure study. A commenter expressed concern that while the use of an insufficient number of long fibers would produce false negative results, using too large a mass exposure would cause pulmonary overload and produce false positive results. Therefore, it would be more useful operationally if the word ''appropriate'' is defined in the guideline: ''An appropriate lung burden

of critical fibers (long and thin) should be achieved'' (for setting the MAC). Another commenter felt that the definition of MAC should be expanded to include the following statement: ''The MAC is the highest concentration of test substance that will not cause a significant impairment (retardation) of particle clearance based on assessment of clearance in a 90-day subchronic inhalation study.''

*Response*. The final guideline has specified that the MAC, the highest fiber concentration to be tested in a chronic study, should be set at a level at which some degree of impaired clearance and toxicity (as determined by parameters observed during lung burden analysis and bronchoalveolar lavage fluid (BALF) analysis in a 90-day subchronic inhalation study) are observed. The SAP concluded that there is no universal level of long fibers that would serve as an appropriate lung burden for all types of fibers. Important differences in the biopersistence and other key physicochemical properties account for the difficulty in setting a single appropriate burden. Present information is insufficient to set levels for what constitutes ''significant impairment'' of particle clearance. Both the Workshop Panel and the SAP concluded that a weight-of-evidence approach, based on all data of the 90-day subchronic inhalation studies, should be used for establishing whether a given exposure meets or exceeds the MAC.

*Comment 10*. On fiber concentration level selection, a commenter suggested that ''The lower exposures should be defined as some fractions of the highest exposure.'' Another commenter expressed that: ''A single exposure level would suffice if it is anticipated that the MAC will not show carcinogenic activity.''

*Response*. The guideline does not attempt to provide specific fractions/numbers to define the lower exposure levels. The lower levels should be appropriately spaced to produce a gradation of toxic effects. A rationale for the concentrations selected must be provided. The objective of a combined chronic toxicity/carcinogenicity study is to determine the effects of a fibrous substance identified to be of potential health concern. If a fibrous material is not anticipated to have any health hazard concern, a chronic inhalation study need not be performed. When a fibrous substance is to be tested, for dose-response analysis, at least three concentrations levels should be used.

*Comment 11*. A commenter expressed that ''recovery'' animals for satellite dose groups in lung burden analysis and BALF analysis can provide important information on the interpretation of the test results and suggested to remove a minimal of 5 animals from each dose group at 3, 6, 12, and 18 months of exposure and then hold until 24 months at which they will be evaluated for the kinetics of fiber buildup/removal from the lungs and progression/regression of lesions.

*Response*. The final guideline has adopted the suggestions of this comment which is endorsed by the SAP.

*Comment 12*. A couple of commenters expressed that BALF analysis data are useful in the 90-day studies and are not of any value in the lifetime studies.

*Response*. Most members of the SAP felt that BALF analysis at interim time points (3, 6, 12, 18 and 24 months) are very useful for an overall evaluation of the fiber toxicity and proper interpretation of the study results. However, it was also felt that a decision to include all time points should be left to the individual study design, and some of the interim time points (e.g., 3, 6 and 18 months) could be omitted. On the basis of this, the final guideline requires BALF analysis be conducted only at the 12 and 24 month sacrifices and makes other time points optional.

*Comment 13*. On clinical pathology (hematology and serum chemistry) and ophthalmology evaluation, there were comments that these determinations provide little toxicological value in the assessment of fiber hazard/risk and should be omitted.

*Response*. The final guideline has adopted the suggestions of these comments which are endorsed by the SAP. However, evaluation of these parameters is required when clinical changes are seen in subchronic studies.

*Comment 14*. On histopathology, a commenter suggested that: ''The histology slides from the scheduled sacrifices should also be stained with Masson-Goldner's trichrome stain that identifies collagen (fibrosis),'' and that: ''The scheduled sacrifices should be recorded according to the Wagner scoring method.''

*Response*. In response to this comment, the following statement has been added into the final test guideline: ''The histology slides from the scheduled sacrifices should, in addition to standard hematoxylin and eosin, be stained with a method that identifies collagen (fibrosis).'' The SAP commented that there are many stains for collagen and no single stain should be specified. The Wagner scoring system has proved useful for providing a consistent and systemic reference for parenchymal disease. It also can be of value when attempting to compare the pathogenic effects of one fiber to another. However, use of the Wagner scoring system to evaluate progression of fibrosis has the disadvantage of being purely qualitative. The SAP suggested to take a consistent approach to record and grade the findings of airway disease and to use ''image analysis'' to assess severity of lesions. The recommendations of the SAP were incorporated into the final guideline.

## V. How Was this Test Guideline Developed?

On May 8–10, 1995, a Workshop on chronic inhalation toxicity and carcinogenicity testing of respirable fibrous particles was held in Chapel Hill, North Carolina. The Workshop was sponsored by the Office of Pollution Prevention and Toxics, Environmental Protection Agency, in collaboration with the National Institute of Environmental Health Sciences (NIEHS), the National Institute for Occupational Safety and Health (NIOSH), and the Occupational Safety and Health Administration (OSHA). The goal of the Workshop was to obtain input from the scientific community on a number of issues related to fiber testing. The Workshop Panel, which was composed of 19 international expert scientists in inhalation toxicology, reviewed, evaluated, and commented on the scientific issues of the Workshop. After extensive discussion and debate of the Workshop issues, the Workshop Panel provided a number of recommendations specific for the design and conduct of chronic inhalation studies of fibers (Refs. 2 and 4).

Using the current EPA/OPPTS health effects test guideline for combined chronic toxicity and carcinogenicity (Ref. 1) as a template and based on the comments and recommendations made by the Workshop Panel on a number of scientific issues specific for fiber testing, EPA/OPPT developed a proposed guideline for combined chronic toxicity and carcinogenicity testing of fibrous particles. In July 1999, the proposed guideline was announced in the **Federal Register** for public comments (64 FR 40871, July 28, 1999). A number of comments on various issues related to the test substance and study design were received. All public comments were evaluated and a revised draft guideline with some of the public comments incorporated was prepared.

On September 26, 2000, the EPA FIFRA SAP held a meeting to review the EPA draft guideline, advise on a number of issues raised by the public commenters on the study protocol, and provide EPA with an opinion about the scientific validity of the test guideline. The final test guideline for OPPTS

870.8355 Combined Chronic Toxicity/Carcinogenicity Testing of Respirable Fibrous Particles has incorporated many of the comments and recommendations made by the SAP (Ref. 3).

**VI. Are there Any Applicable Voluntary Consensus Standards that EPA Should Consider?**

This notice of availability does not involve a proposed regulatory action that would require the Agency to consider voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Section 12(d) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide an explanation to Congress, through Office of Management and Budget (OMB), when the Agency decides not to use available and applicable voluntary consensus standards when the NTTAA directs the Agency to do so.

In the notice of availability for the proposed test guideline published in the **Federal Register** of July 28, 1999 (64 FR 40871), EPA specifically sought comment on the availability of any applicable voluntary consensus standards that should be considered during the development of the final test guideline or any future regulatory action that EPA may take under TSCA. No response to this request was received.

**VII. References**

The following references are cited in this document by the number indicated:

1. United States Environmental Protection Agency. Health Effects Test Guidelines: Combined Chronic Toxicity/Oncogenicity. 40 CFR 798.3320. pp. 165–172.

2. United States Environmental Protection Agency. Office of Pollution Prevention and Toxics. Workshop on Chronic Inhalation Toxicity and Carcinogenicity Testing of Respirable Fibrous Partcles. EPA–748–R–96–001, January 1996.

3. United States Environmental Protection Agency. FIFRA Scientific Advisory Panel Meeting on Test Guidelines for Chronic Inhalation Toxicity and Carcinogenicity of Fibrous Partcles, September 26, 2000. SAP Report No. 2000–0X, 01/05/2001.

4. Vu, V., Barrett, J.C., Roycroft, J., Schuman, L., Dankovic, D., Baron, P., Martonen, T., Pepelko, W. and Lai, D. Workshop Report: Chronic Inhalation Toxicity and Carcinogenicity Testing of Respirable Fibrous Particles. Regulatory Toxicology and Pharmacology 24:202-212 (1996).

**List of Subjects**

Environmental protection, Chemical testing, Test guideline.

Dated: July 17, 2001.

**Stephen L. Johnson,**

*Assistant Administrator for Prevention, Pesticides and Toxic Substances.*

[FR Doc. 01–18890 Filed 7–31–01; 8:45 am]

BILLING CODE 6560–50–S

## FARM CREDIT ADMINISTRATION

### Farm Credit Administration Board; Special Meeting

**AGENCY:** Farm Credit Administration.

**SUMMARY:** Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board (Board).

**DATE AND TIME:** The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on August 7, 2001, from 8 a.m. until such time as the Board concludes its business.

**FOR FURTHER INFORMATION CONTACT:** Kelly Mikel Williams, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

**ADDRESSES:** Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

**SUPPLEMENTARY INFORMATION:** This meeting of the Board will be closed to the public. The matters to be considered at the meeting are:

*CLOSED SESSION**

- Personnel Issues.

Dated: July 27, 2001.

**Kelly Mikel Williams,**

*Secretary, Farm Credit Administration Board.*

[FR Doc. 01–19330 Filed 7–30–01; 12:25 pm]

BILLING CODE 6705–01–P

* Session closed—exempt pursuant to 5 U.S.C. 552b(c)(2).

## FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

### Meeting

**AGENCY:** Federal Accounting Standards Advisory Board.

**ACTION:** Notice of meeting for August 2001.

*Board Action:* Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules Of Procedure, as amended in October, 1999, a corrected notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) will meet on Thursday, August 23 and Friday, and Friday, August 24, 2001, in room 6N30 of the GAO Building.

The purpose of the meeting is to discuss issues related to:

—National Defense PP&E,
—Consolidated Financial Reporting, and
—Stewardship Reporting,
—Technical Agenda.

A more detailed agenda can be obtained from the FASAB website (*www.financenet.gov/fasab.htm* one week prior to each meeting.

Following the August meeting, the schedule for the next two meetings of the Board is as follows:

—Thursday and Friday, October 25 and 26, 2001;
—Thursday and Friday, December 13 and 14, 2001.

The purpose of these meetings will be to discuss issues related to:

—Stewardship Reporting;
—National Defense Property, Plant & Equipment;
—Accounting and Auditing Policy Committee issues; and
—Any other topics as needed.

A Steering Committee meeting of the Board's Principal Board members will be held in conjunction with each of the Board meetings. A more detailed agenda for each Board meeting can be seen on the FASAB website *www.financenet.gov/fasab.htm* one week prior to each meeting. Meetings will be held in room 6N30 of the GAO Building.

Any interested person may attend the meetings as an observer. Board discussion and reviews are open to the public. GAO Building security requires advance notice of your attendance. For the August meeting, please notify FASAB by August 22 of your planned attendance by calling 202–512–7350, and for the subsequent meetings one day prior to the respective meeting.

**FOR FURTHER INFORMATION CONTACT:** Wendy Comes, Executive Director, 441

G St., NW., Mailstop 6K17V, Washington, DC 20548, or call (202) 512–7350.

**Authority:** Federal Advisory Committee Act. Pub. L. No. 92–463)

Dated: November 13, 2001.

**Wendy M. Comes,**

*Executive Director.*

[FR Doc. 01–19181 Filed 7–31–01; 8:45 am]

**BILLING CODE 1610–01–M**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 4:49 p.m. on Friday, July 27, 2001, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's resolution activities.

In calling the meeting, the Board determined, on motion of Director Ellen S. Seidman (Director, Office of Thrift Supervision), seconded by Director John D. Hawke, Jr. (Comptroller of the Currency), concurred in by Acting Chairman John M. Reich, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: July 30, 2001.

Federal Deposit Insurance Corporation.

**Valerie J. Best,**

*Assistant Executive Secretary.*

[FR Doc. 01–19329 Filed 7–30–01; 12:25 pm]

**BILLING CODE 6717–01–Mt**

## FEDERAL MARITIME COMMISSION

### Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

*Agreement No.:* 011772.

*Title:* NMCC/HUAL Space Charter Agreement.

*Parties:* HUAL A/S Nissan Motor Car Carrier Co., Ltd.

*Synopsis:* The proposed agreement would allow the parties to charter space to and from each other and coordinate sailings for the carriage of motor vehicles, parts and accessories, and other merchandise in the trade from Japan and Korea to U.S. ports.

*Agreement No.:* 201043–002.

*Title:* Oakland–FESCO Terminal Service Agreement.

*Parties:* Port of Oakland, FESCO Ocean Management, Ltd., d/b/a FESCO Australia North America Line.

*Synopsis:* The amendment suspends the agreement for the period during which FESCO uses other berths at the port as a secondary user.

*Agreement No.:* 201105–001.

*Title:* Terminal Use Agreement Between the Port of Oakland and China Shipping Container Lines.

*Parties:* Port of Oakland, China Shipping Container Lines.

*Synopsis:* The amendment exercises the renewal option of the agreement, extending it through May 31, 2003.

*Agreement No.:* 201124.

*Title:* Oakland/Yang Ming Terminal Use Agreement.

*Parties:* Port of Oakland, Yang Ming Marine Transport Corporation.

*Synopsis:* The proposed agreement provides for the non-exclusive use of portions of the Ben E. Nutter Container Terminal. The agreement runs through June 1, 2006.

By Order of the Federal Maritime Commission.

Dated: July 27, 2001.

**Theodore A. Zook,**

*Assistant Secretary.*

[FR Doc. 01–19214 Filed 7–31–01; 8:45 am]

**BILLING CODE 6730–01–P**

## FEDERAL MARITIME COMMISSION

### Notice of Request for Additional Information

The Commission gives notice that it has requested that the parties to the below listed agreement provide additional information pursuant to section 6(d) of the Shipping Act of 1984, 46 U.S.C. app. 1701 *et seq.* The Commission has determined that further information is necessary to evaluate the proposed agreement. This action prevents the agreement from becoming effective as originally scheduled.

*Agreement No.:* 011769.

*Title:* Atlantsskip ehf/Samskip hf Space Charter Agreement.

*Parties:* Atlantsskip ehf, Samskip hf.

By Order of the Federal Maritime Commission.

Dated: July 27, 2001.

**Theodore A. Zook,**

*Assistant Secretary.*

[FR Doc. 01–19213 Filed 7–31–01; 8:45 am]

**BILLING CODE 6730–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare and Medicaid Services

**[Document Identifier: HCFA–10041]**

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Centers for Medicare and Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to

minimize the information collection burden.

*Type of Information Collection Request:* New collection; *Title of Information Collection:* Long Term Care Awareness Project; *Form No.:* CMS–10041 (OMB# 0938–NEW); *Use:* CMS needs to collect data to pilot test a national campaign to educate current and future Medicare beneficiaries and their families about long term health care needs, as requested in the Clinton Fiscal Year 2000 Budget, to design and implement a nationwide campaign. Respondents will be from two groups: 55–70 year-olds and 18–64 years old persons with disability; *Frequency:* Quarterly; *Affected Public:* Individuals or households; *Number of Respondents:* 7,800; *Total Annual Responses:* 3,900; *Total Annual Hours:* 800.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: July 20, 2001.

**Julie Brown,**

*CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.*

[FR Doc. 01–19153 Filed 7–31–01; 8:45 am]

BILLING CODE 4120–03–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[CMS–4023–PN]**

**ZRIN 0938–-ZA16**

## Medicare Program; Medicare+Choice Organizations—Application by the Accreditation Association for Ambulatory Health Care, Inc. (AAAHC) for Approval of Deeming Authority for Medicare+Choice Organizations That Are Licensed as a Health Maintenance Organization (HMO) or a Preferred Provider Organization (PPO)

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Proposed notice.

**SUMMARY:** This proposed notice announces the receipt of an application from the Accreditation Association for Ambulatory Health Care, Inc. (AAAHC) for recognition as a national accreditation program for health maintenance organizations (HMOs) and Preferred Provider Organizations (PPOs) that wish to participate in the Medicare+Choice program. Regulations set forth at 42 CFR 422.157(b)(1) specify that a **Federal Register** notice will announce our receipt of the accreditation organization's application for approval, describe the criteria we will use in evaluating the application, and provide at least a 30-day public comment period.

**DATES:** We will consider comments if we receive them at the appropriate address, as provided below, no later than 5 p.m. on August 31, 2001.

**ADDRESSES:** In commenting, please refer to file code CMS–4023–PN. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. Mail written comments (one original and three copies) to the following address ONLY:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–4023–PN, P.O. Box 8013,Baltimore, MD 21244–8013.

Please allow sufficient time for mailed comments to be timely received in the event of delivery delays.

If you prefer, you may deliver (by hand or courier) your written comments (one original and three copies) to one of the following addresses:

Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5–16–03, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and could be considered late.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Patricia Kurtz, (410) 786–4670.

**SUPPLEMENTARY INFORMATION:**

*Inspection of Public Comments:* Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone (410) 786–7197.

*Copies:* To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 or by faxing to (202) 512–2250. The cost for each copy is $9. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

This **Federal Register** document is also available from the **Federal Register** online database through GPO Access, a service of the U.S. Government Printing Office. The Website address is: *http://www.access.gpo.gov/nara/index.html.*

### I. Background

Under the Medicare program, eligible beneficiaries may receive covered services through a managed care organization (MCO) that has a Medicare+Choice (M+C) contract with the Centers for Medicare & Medicaid Services (CMS). The regulations specifying the Medicare requirements that must be met in order for an MCO to enter into an M+C contract with CMS are located at 42 CFR part 422. These regulations implement Part C of Title XVIII of the Social Security Act (the Act), which specifies the services that an MCO must provide and the requirements that the organization must

meet to be an M+C contractor. Other relevant sections of the Act are Parts A and B of Title XVIII and Part A of Title XI pertaining to the provision of services by Medicare certified providers and suppliers.

Generally, for an organization to enter into an M+C contract, the organization must be licensed by the State as a risk bearing organization as set forth in part 422. Additionally, the organization must file an application demonstrating that other Medicare requirements in part 422 are met. Following approval of the contract, CMS engages in routine monitoring of the M+C organization to ensure continuing compliance. The monitoring process is comprehensive and uses a written protocol that itemizes the Medicare requirements the M+C organization must meet.

As an alternative for meeting some Medicare requirements, an M+C organization may be exempt from CMS monitoring of certain requirements in subsets listed in section 1852(e)(4)(C) of the Act as a result of an M+C organization's accreditation by a CMS-approved accrediting organization (AO). In essence, the Secretary ''deems'' that the Medicare requirements are met based on a determination that the AO's standards are at least as stringent as Medicare requirements. The term for which an AO may be approved by CMS may not exceed 6 years as stated in § 422.157(b)(2). For continuing approval, the AO will have to re-apply to CMS.

The applicant organization is generally recognized as an entity that accredits MCOs that are licensed as an HMO or a PPO.

## II. Approval of Deeming Organizations

Section 1852(e)(4)(C) of the Act requires that within 210 days of receipt of an application, the Secretary shall determine whether the applicant meets criteria specified in section 1852(e)(4) of the Act. Under these criteria, the Secretary will consider for a national accreditation body, its requirements for accreditation, its survey procedures, its ability to provide adequate resources for conducting required surveys and supplying information for use in enforcement activities, its monitoring procedures for provider entities found out of compliance with the conditions or requirements, and its ability to provide the Secretary with necessary data for validation.

The purpose of this proposed notice is to inform the public of our consideration of AAAHC's application for approval of deeming authority of M+C organizations that are licensed as HMOs or PPOs for the following six categories:

- Quality assurance.
- Access to services.
- Antidiscrimination.
- Information on advance directives.
- Provider participation rules.
- Confidentiality and accuracy of enrollees' records.

This notice also solicits public comment on the ability of the applicant's accreditation program to meet or exceed the Medicare requirements for which it seeks authority to deem.

## III. Evaluation of Deeming Request

On June 20, 2001, AAAHC submitted all the necessary information to permit us to make a determination concerning its request for approval as a deeming authority for M+C organizations that are licensed as an HMO or a PPO. Under § 422.158(a), our review and evaluation of a national accreditation organization will consider, but not necessarily be limited to, the following information and criteria:

- The equivalency of AAAHC's requirements for HMOs and PPOs to CMS's comparable M+C organization requirements.
- AAAHC's survey process, to determine the following:
- The frequency of surveys.
- The types of forms, guidelines and instructions used by surveyors.
- Descriptions of the accreditation decision making process, deficiency notification and monitoring process, and compliance enforcement process.
- Detailed information about individuals who perform accreditation surveys including—
- Size and composition of the survey team;
- Education and experience requirements for the surveyors;
- In-service training required for surveyor personnel;
- Surveyor performance evaluation systems; and
- Conflict of interest policies relating to individuals in the survey and accreditation decision process.
- Descriptions of the organization's—
- Data management and analysis system;
- Policies and procedures for investigating and responding to complaints against accredited organizations;
- Types and categories of accreditation offered andM+C organizations currently accredited within those types and categories.

In accordance with § 422.158(b), the applicant must provide documentation relating to—

- Its ability to provide data in a CMS-compatible format;
- The adequacy of personnel and other resources necessary to perform the required surveys and other activities; and
- Assurances that it will comply with ongoing responsibility requirements specified in § 422.157(c).

Additionally, the accrediting organization must provide CMS the opportunity to observe its accreditation process for managed care organizations and must provide other information required by CMS to prepare for an onsite visit to the AO's offices to verify representations made in the application and to make a determination on the application.

## IV. Response to Comments and Notice Upon Completion of Evaluation

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the major comments in the preamble to that document.

Upon completion of our evaluation, including evaluation of comments received as a result of this notice, we will publish a notice in the **Federal Register** announcing the result of our evaluation.

In accordance with the provisions of E.O. 12866, this proposed notice was not reviewed by the Office of Management and Budget.

Section 1853(a)(1)(B) of the Social Security Act (42 U.S.C. 1395w-23(a)(1)(B)).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare-Hospital Insurance; and Program No. 93.774, Medicare-Supplementary Medical Insurance Program)

Dated: July 26, 2001.

**Thomas A. Scully,**

*Administrator, Centers for Medicare & Medicaid Services*

[FR Doc. 01–19189 Filed 7–31–01; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[CMS–4025–PN]**

**ZRIN 0938–ZA15**

## Medicare Program; Medicare+Choice Organizations—Application by the National Committee for Quality Assurance (NCQA) for Approval of Deeming Authority for Medicare+Choice Organizations That Are Licensed as a Health Maintenance Organization (HMO)

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Proposed notice.

**SUMMARY:** This proposed notice announces the receipt of an application from the National Committee for Quality Assurance (NCQA) for recognition as a national accreditation program for Health Maintenance Organizations (HMOs) that wish to participate in the Medicare+Choice program. Regulations set forth at 42 CFR 422.157(b)(1) specify that a **Federal Register** notice will announce our receipt of the accreditation organization's application for approval, describe the criteria we will use in evaluating the application, and provide at least a 30-day public comment period.

**DATES:** We will consider comments if we receive them at the appropriate address, as provided below, no later than 5 p.m. on August 31, 2001.

**ADDRESSES:** In commenting, please refer to file code CMS–4023–PN. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. Mail written comments (one original and three copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–4023–PN, P.O. Box 8013, Baltimore, MD 21244–8013.

Please allow sufficient time for mailed comments to be timely received in the event of delivery delays.

If you prefer, you may deliver (by hand or courier) your written comments (one original and three copies) to one of the following addresses: Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5–16–03, 7500 Security Boulevard, Baltimore, MD 21244–1850.

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For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Patricia Kurtz, (410) 786–4670.

**SUPPLEMENTARY INFORMATION:**

*Inspection of Public Comments:* Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone (410) 786–7197.

*Copies:* To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 or by faxing to (202) 512–2250. The cost for each copy is $9. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

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### I. Background

Under the Medicare program, eligible beneficiaries may receive covered services through a managed care organization (MCO) that has a Medicare+Choice (M+C) contract with the Centers for Medicare & Medicaid Services (CMS). The regulations specifying the Medicare requirements which must be met in order for an MCO to enter into an M+C contract with CMS are located at 42 CFR part 422. These regulations implement part C of Title XVIII of the Social Security Act (the Act), which specifies the services that an MCO must provide and the requirements that the organization must meet to be an M+C contractor. Other relevant sections of the Act are parts A and B of Title XVIII and part A of Title XI pertaining to the provision of services by Medicare certified providers and suppliers.

Generally, for an organization to enter into an M+C contract, the organization must be licensed by the State as a risk bearing organization as set forth in part 422. Additionally, the organization must file an application demonstrating that other Medicare requirements in part 422 are met. Following approval of the contract, CMS engages in routine monitoring of the M+C organization to ensure continuing compliance. The monitoring process is comprehensive and uses a written protocol that itemizes the Medicare requirements the M+C organization must meet.

As an alternative for meeting some Medicare requirements, an M+C organization may be exempt from CMS monitoring of certain requirements in subsets listed in section 1852(e)(4)(C) of the Act as a result of an M+C organization's accreditation by a CMS-approved accrediting organization (AO). In essence, the Secretary ''deems'' that the Medicare requirements are met based on a determination that the AO's standards are at least as stringent as Medicare requirements. The term for which an AO may be approved by CMS may not exceed 6 years as stated in § 422.157(b)(2). For continuing approval, the AO will have to re-apply to CMS.

The applicant organization is generally recognized as an entity that accredits MCOs that are licensed as an HMO or a PPO.

### II. Approval of Deeming Organizations

Section 1852(e)(4)(C) of the Act requires that within 210 days of receipt of an application, the Secretary shall determine whether the applicant meets criteria specified in section 1852(e)(4) of the Act. Under this criteria, the Secretary will consider for a national accreditation body, its requirements for accreditation, its survey procedures, its ability to provide adequate resources for conducting required surveys and supplying information for use in enforcement activities, its monitoring procedures for provider entities found out of compliance with the conditions or requirements, and its ability to provide the Secretary with necessary data for validation.

The purpose of this notice is to inform the public of our consideration of NCQA's application for approval of deeming authority of M+C organizations that are licensed as an HMO for the following six categories:

- Quality assurance.
- Access to services.

- Antidiscrimination.
- Information on advance directives.
- Provider participation rules.
- Confidentiality and accuracy of enrollees' records.

This notice also solicits public comment on the ability of the applicant's accreditation program to meet or exceed the Medicare requirements for which it seeks authority to deem.

**III. Evaluation of Deeming Request**

On June 27, 2001, NCQA submitted all the necessary information to permit us to make a determination concerning its request for approval as a deeming authority for M+C organizations that are licensed as an HMO. Under § 422.158(a) of the regulations, our review and evaluation of a national accreditation organization will consider, but not necessarily be limited to, the following information and criteria:

- The equivalency of NCQA's requirements for HMOs to CMS's comparable M+C organization requirements.
- NCQA's survey process, to determine the following:

—The frequency of surveys.
—The types of forms, guidelines and instructions used by surveyors.
—Descriptions of the accreditation decision making process, deficiency notification and monitoring process, and compliance enforcement process.

- Detailed information about individuals who perform accreditation surveys including—

—Size and composition of the survey team;
—Education and experience requirements for the surveyors;
—In-service training required for surveyor personnel;
—Surveyor performance evaluation systems; and
—Conflict of interest policies relating to individuals in the survey and accreditation decision process.

—Descriptions of the organization's—
—Data management and analysis system;
—Policies and procedures for investigating and responding to complaints against accredited organizations;
—Types and categories of accreditation offered and M+C organizations currently accredited within those types and categories.

In accordance with § 422.158(b), the applicant must provide documentation relating to—

—Its ability to provide data in a CMS-compatible format;
—The adequacy of personnel and other resources necessary to perform the required surveys and other activities; and
—Assurances that it will comply with ongoing responsibility requirements specified in § 422.157(c).

Additionally, the accrediting organization must provide CMS the opportunity to observe its accreditation process on site at a managed care organization and must provide any other information that is required by CMS to prepare for an onsite visit to the AO's offices. These site visits will help to verify that the information presented in the application is correct and to make a determination on the application.

**IV. Response to Comments and Notice Upon Completion of Evaluation**

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the major comments in the preamble to that document.

Upon completion of our evaluation, including evaluation of comments received as a result of this notice, we will publish a notice in the **Federal Register** announcing the result of our evaluation.

In accordance with the provisions of E.O. 12866, this proposed notice was not reviewed by the Office of Management and Budget.

Section 1853(a)(1)(B) of the Social Security Act (42 U.S.C. 1395w–23(a)(1)(B))

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare-Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: July 26, 2001.

**Thomas A. Scully,**

*Administrator, Centers for Medicare & Medicaid Services.*

[FR Doc. 01–19190 Filed 7–31–01; 8:45 am]

BILLING CODE 4120–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of September 2001:

*Name:* Council on Graduate Medical Education (COGME).

*Date and Time:* September 6, 2001, 8:30 a.m.–4:30 p.m. September 7, 2001, 8:30 a.m.–12 p.m.

*Place:* Holiday Inn,Versailles I Meeting Room,8120 Wisconsin Avenue,Bethesda, MD 20814.

The meeting is open to the public.

*Agenda:* The agenda for the first day, September 6, will include: Welcome and opening comments from the Acting Administrator, Health Resources and Services Administration; the Associate Administrator for Health Professions; and the Acting Executive Secretary of COGME. The Council will discuss the preparation and development of the COGME Final Report.

The agenda for the second day, September 7, will include a presentation given by the Center for California Health Workforce Studies, University of California, San Francisco, CA, on its report, ''Strategies for Improving the Racial and Ethnic Diversity of the Health Professions: Findings and Recommendations.'' There will be a discussion of future projects and the structure of the COGME work groups.

Anyone requiring information regarding the meeting should contact Crystal L. Clark, M.D., M.P.H., Acting Executive Secretary, Council on Graduate Medical Education, Division of Medicine and Dentistry, Bureau of Health Professions, Room 9A–27, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6326.

Agenda items are subject to change as priorities dictate.

Dated: July 25, 2001.

**Jane M. Harrison,**

*Director, Division of Policy Review and Coordination.*

[FR Doc. 01–19149 Filed 7–31–01; 8:45 am]

BILLING CODE 4165–15–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Cancer Institute Director's Consumer Liaison Group.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

*Name of Committee:* National Cancer Institute Director's Consumer Liaison Group.

*Date:* August 13, 2001.

*Time:* 12 PM to 2 PM.

*Agenda:* To discuss the upcoming October 2001 meeting, to give updates on CARRA and Working Groups.

*Place:* National Cancer Institute, 6116 Executive Boulevard, Suite 300 C, Rockville, MD 20852, (Telephone Conference Call).

*Contact Person:* Elaine Lee, Acting Executive Secretary, Office of Liaison Activities, National Institutes of Health, National Cancer Institute, 6116 Executive Boulevard, Suite 300 C, Bethesda, MD 20892, 301/594–3194.

This notice is being published less than 15 days prior to the meeting due to scheduling conflicts.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: deainfor.nci.nih.gov/advisory/dclg/delg.htm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 24, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–19080 Filed 7–31–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Advisory Committee to the Director, National Cancer Institute.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

*Name of Committee:* Advisory Committee to the Director, National Cancer Institute.

*Date:* August 29, 2001.

*Time:* 9:30 AM to 10:30 AM.

*Agenda:* The purpose of this meeting is to discuss the Lung Progress Review Group Report.

*Place:* National Cancer Institute, National Institutes of Health, 9000 Rockville Pike, Building 31, Room 11A03, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Susan J. Waldrop, Executive Secretary, National Institutes of Health, National Cancer Institute, Office of Scientific Opportunities, Bethesda, MD 20892, 301/496–1458.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: deainf.nci.nih.gov/advisory/joint/htm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 24, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–19081 Filed 7–31–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Cancer Institute Special Emphasis Panel Natural History of Human T-Lymphotropic Virus Type I (HTLV–1) in the Caribbean

*Date:* August 2, 2001

*Time:* 1 p.m. to 4 p.m.

*Agenda:* To review and evaluate contract proposals

*Place:* National Cancer Institute, 6130 Executive Blvd., Conference Room C, Rockville, MD 20852. (Telephone Conference Call)

*Contact Person:* Kirt Vener, PhD, Branch Chief, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8061, Bethesda, MD 20892. (301) 496–7174

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 24, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–19089 Filed 7–31–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Cancer Institute Special Emphasis Panel Determining the Carcinogenic Significance of Hetercyclic Amines

*Date:* August 8, 2001.

*Time:* 4 p.m. to 7 p.m.

*Agenda:* To review and evaluate grant applications

*Place:* National Cancer Institute, Grants Review Branch, 6116 Executive Boulevard, Rockville, MD 20892, (Telephone Conference Call)

*Contact Person:* Peter J. Wirth, PhD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8021, Bethesda, MD 20892, 301/496–7565

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 24, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–19090 Filed 7–31–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the meeting of the President's Cancer Panel.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(9)(B), Title 5 U.S.C., as amended because the premature disclosure of information and the discussions would likely to significantly frustrate implementation of recommendations.

*Name of Committee:* President's Cancer Panel

*Date:* August 3, 2001

*Closed:* 1:00 PM to 3:00 PM

*Agenda:* To review the 2000 2001 draft annual report and formulate recommendations for the future direction of the National Cancer Program to be submitted to the President for consideration prior to presentation to Congress.

*Place:* National Institutes of Health, 31 Center Drive, Building 31C, Conference Room 10, Bethesda, MD 20892. (Telephone Conference Call)

*Contact Person:* Maureen O. Wilson, PhD. Executive Secretary, National Cancer Institute, NIH, 31 Center Drive, Building 31, Room 4A48, Bethesda, MD 20892. (301) 496–1148

This notice is being published less than 15 days prior to the meeting due to the scheduling conflicts.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: deainfo.nic.nih.gov/advisory/pcp/pcp.htm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 25, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–19091 Filed 7–31–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Human Genome Research Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Council for Human Genome Research.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated wit the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Advisory Council for Human Genome Research.

*Date:* September 10–11, 2001.

*Open:* September 10, 2001, 8:30 a.m. to 3 p.m.

*Agenda:* To discuss matters of program relevance.

*Place:* National Institutes of Health, Natcher Conference Center, E1 and E2, 9000 Rockville Pike, Bethesda, MD 20892.

*Closed:* September 10, 2001, 3 p.m. to Adjournment on 9/11/2001.

*Agenda:* To review and evaluate grant applications and/or proposals.

*Place:* National Institutes of Health, Natcher Conference Center, E1 and E2, 9000 Rockville Pike, Bethesda, MD 20892.

*Contact Person:* Elke Jordan, PhD, Deputy Director, National Human Genome Research Institute, National Institutes of Health, PHS, DHHS, 31 Center Drive, Building 31, Room 4B09, Bethesda, MD 20892. 301 496–0844.

Information is also available on the Institute's/Center's home page; www.nhgri.nih.gov/About_NHGRI/Od/Advisory/nachgr.html, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: July 25, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–19087 Filed 7–31–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Human Genome Research Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C. as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Inherited Disease Research Access Committee

*Date:* September 6, 2001.

*Open:* 8:30 am to 9:30 am.

*Agenda:* To discuss matters of program relevance.

*Place:* The River Inn, 924 25th Street, Washington, DC 20037

*Closed:* 9:30 am to 2:00 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* The River Inn, 924 25th Street, Washington, DC 20037.

*Contact Person:* Jerry Roberts, PhD, Scientific Review Administrator, Office of Scientific Review, National Institutes of health, Building 38A, Bethesda, MD 20892. 301 402–0838.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: July 25, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–19088 Filed 7–30–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Alcohol Abuse and Alcoholism; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, August 8, 2001, 8:00 a.m. to August 10, 2001, 6:00 p.m., DoubleTree Hotel, 1750 Rockville Pike, Rockville, MD 20852 which was published in the **Federal Register** on July 16, 2001, 66 FR 37043–37044.

The meeting will be held 08/07–10/2001 beginning at 6:30 p.m. instead of 08/08/2001 at 8 a.m. The location is the same. The meeting is closed to the public.

Dated: July 24, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–19076 Filed 7–31–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel 01–C2–Review of RFP NIH–NIDCR–2–01–1

*Date:* August 21, 2001.

*Time:* 10 a.m. to 1 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* Natcher Building, Rm. 4AN44F, Bethesda, MD 20892. (Telephone Conference Call)

*Contact Person:* Anna Sandberg, PhD, Scientific Review Administrator, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, Bethesda, MD 20892. (301) 594–3089.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–19077 Filed 7–31–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Environmental Health Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Environmental Health Sciences Special Emphasis Panel, August 6, 2001, 1:30 PM to August 6, 2001, 2:30 PM, NIEHS, 79 T.W. Alexander Drive, Building 4401, Conference Room 3446, Research Triangle Park, NC, 27709 which was published in the **Federal Register** on July 11, 2001, FR 66: 36293.

Dated: July 24, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–19078 Filed 7–31–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which could constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel 01–64, Review of R01 grants.

*Date:* July 31, 2001.

*Time:* 10 a.m. to 1 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* 45 Center Drive, Natcher Building, Conference Room H, Bethesda, MD 20892. (Telephone Conference Call)

*Contact Person:* Anna Sandberg, PhD, Scientific Review Administrator, National Institute of Dental & Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, Bethesda, MD 20892. (301) 594–3089.

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: July 24, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–19079 Filed 7–31–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in according with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of person privacy.

*Name of Committee:* National Institute of Child Health and Human Development Special Emphasis Panel.

*Date:* July 25, 2001.

*Time:* 2 p.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* 6100 Executive Blvd. 5th Floor, Rockville, MD 20852, (Telephone Conference Call).

*Contact Person:* GOPAL M. BHATNAGAR, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, PHS, DHHS, 9000 Rockville Pike, 6100 Bldg., Room 5E01, Bethesda, MD 20892, (301) 496–1485.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: July 24, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–19082 Filed 7–31–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

*Date:* August 13, 2001.

*Time:* 2 PM to 3 PM.

*Agenda:* To review and evaluate grant applications.

*Place:* 6000 Executive Blvd., Suite 409, Rockville, MD 20852, (Telephone Conference Call).

*Contact Person:* Elsie D. Taylor, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–7003, 301–443–9787, etaylor@niaaa.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: July 25, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–19083 Filed 7–31–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel.

*Date:* July 31, 2001.

*Time:* 3 pm to 4 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Joel Sherrill, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC 9606, Bethesda, MD 20892–9606, 301–443–6102.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: July 25, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–19084 Filed 7–31–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552(b)(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–7 O1.

*Date:* August 22–24, 2001.

*Time:* 8:30 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Doubletree Hotel, 300 Army Navy Drive, Arlington, VA 22202.

*Contact Person:* Lakshmanan Sankaran, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 754, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, Md 20892–6600, (301) 594–7799.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: July 25, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–19085 Filed 7–31–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552(b)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel ZDK1 GRB–D(02).

*Date:* August 20, 2001.

*Time:* 2 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* 2 Democracy Plaza, 6707 Democracy Blvd., Room 750, Bethesda, MD 20892. (Telephone Conference Call).

*Contact Person:* Neal A Musto, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 750, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600. (301) 594–7798, muston@extra.niddk.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: July 25, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–19086 Filed 7–31–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* August 14, 2001.

*Time:* 2 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Alexander D. Politics, PhD Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, (301) 435–1225, politisa@csr.nih.gov.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel

*Date:* August 16–17, 2001

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Georgetown Suites, 1000 29th St., NW., Washington, DC 20007.

*Contact Person:* Jo Pelham, BA Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892, (301) 435–1786.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel Dental SBIR

*Date:* August 16, 2001,

*Time:* 10 a.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* One Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20037.

*Contact Person:* J. Terrell Hoffeld, DDS, PhD Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7816, Bethesda, MD 20892, (301) 435–1781 th88q@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health)

Dated: July 23, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–19074 Filed 7–30–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Emphasis Panel, July 26, 2001, 6 PM to July 27, 2001, 5 PM, Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD, 20817 which was published in the **Federal Register** on July 16, 2001, 66 FR 37044–37046.

The meeting will be held at the Bethesda Marriott, Pooks Hill from 7 PM

to 5 PM. The dates remain the same. The meeting is closed to the public.

Dated: July 23, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–19075 Filed 7–31–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a list of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Participant Feedback Forms for Two CMHS Mental Health Education Training Initiatives—New—This project will collect feedback from mental health professionals who receive training from any of SAMHSA's Center for Mental Health Services-supported Minority Community Based Organizations or Behavioral Health Professional Association contractors. The forms to be used to collect the feedback are refined versions of feedback forms required for use by the Mental Health Care Provider Education in HIV/AIDS Program II and approved by OMB under control number 0930–0195.

The range of mental health issues covered is broad and, depending on the needs of the audiences, the training sites may use any of the following types of curricula: general, ethics, neuropsychiatric, neuropsychiatric designed for non-psychiatrists, and an adherence curriculum. Education sites also vary the complexity and intensity of the training sessions, resulting in sessions of variable length. Service providers attending sessions shorter than 6 hours will provide feedback by completing a single form at the end of the training session. Those attending sessions 6 hours or longer will be asked to complete forms both before and after the training session in order to assess both satisfaction and perceived knowledge gain. Education sites funded under these initiatives will vary considerably in their prior experience in conducting trainings, with some organizations having significant prior experience while others will be developing their training programs. The burden estimates below incorporate and reflect reasonable assumptions regarding the volume, type and length of training sessions conducted by the various organizations likely to be funded under these two initiatives.

The Minority HIV/AIDS Mental Health Services Initiative is expected to be comprised of 12 minority community-based organizations providing mental health HIV/AIDS education trainings to traditional and non-traditional mental health service providers. Estimates of the numbers of mental health professionals trained and types of training sessions conducted are based on the assumption that half (6) of the funded education sites will be existing education programs and the other half will be new education sites. The six new education sites are expected to train about 300 individuals annually using the general curriculum (and corresponding form—The Participant Feedback Form) with their training sessions being less than 6 hours long. These sites will conduct, on average about 15 training sessions per year with approximately 20 people attending each session.

The remaining six sites are expected to be education sites with existing education training programs and are expected to conduct a total of 25 training sessions each per year with about 20 individuals attending each training session. These six sites should therefore train a total 500 individuals each per year. The majority of these sessions will be less than 6 hours long (about 76% or 19 sessions of the 25 sessions). In contrast to the new education sites, however, these sites are likely to use all of the following curricula: general, ethics, neuropsychiatric, neuropsychiatric designed for non-psychiatrists, and the adherence curriculum. Of the 19 training sessions that are shorter than 6 hours, 10 are expected to use the general curriculum, 3 will use the adherence curriculum, and 2 sessions each for the ethics, neuropsychiatric, neuropsychiatric for non-psychiatrists. Four of the 6 sessions that are longer than 6 hours are expected to use the general curriculum and corresponding pre/post participant forms, and 2 will use the neuropsychiatric curriculum with the accompanying corresponding pre/post neuropsychiatric participant forms. Burden estimates are presented in Table 1 below.

The Behavioral Health Professional Health Association Training Initiative is a continuation effort. This initiative will consist of three Associations providing training to mental health professionals both within and outside of their disciplines. These Associations are required to train a minimum of 1,000 mental health professionals per year using the general, ethics, neuropsychiatric, neuropsychiatric for non-psychiatrists, and adherence curricula. They all have prior experience training mental health professionals and will conduct sessions that are of variable length (i.e., shorter and longer than 6 hours long). Each Association will conduct about 57 trainings per year, the majority of which (about 90% or about 51 training sessions) will be less than 6 hours long. Of the shorter trainings, each Association will conduct about 20 using the general curriculum, 6 using the ethics curriculum, 12 using the neuropsychiatric curriculum, 9 using the adherence curriculum and 4 using the neuropsychiatric curriculum for non-psychiatrists. The appropriate post-training feedback form will be administered to trainees after each session. Each Association will also conduct about 6 longer trainings per year; 4 using the neuropsychiatric curriculum and 2 using the general curriculum. The corresponding pre/post feedback form will be administered at each training session. Table 2 below uses these assumptions to calculate the burden estimate.

TABLE 1.—MINORITY HIV/AIDS MENTAL HEALTH SERVICES INITIATIVE

| Form | Responses/ respondent | Estimated number of respondents | Estimated hours/response | Total |
|---|---|---|---|---|
| **Minority HIV/AIDS Mental Health Services Initiative—12 Sites All Sessions—One form per session completed by Program staff/trainer** | | | | |
| Session Report Form | 1 | 240 | 0.08 | 19 |

TABLE 1.—MINORITY HIV/AIDS MENTAL HEALTH SERVICES INITIATIVE—Continued

| Form | Responses/ respondent | Estimated number of respondents | Estimated hours/response | Total hours |
|---|---|---|---|---|
| **Sessions less than 6 hours** | | | | |
| Participant Feedback Form | 1 | 3,000 | 0.167 | 501 |
| Neuropsychiatric Participant Feedback Form | 1 | 240 | 0.167 | 40 |
| Ethics Participant Feedback Form | 1 | 240 | 0.167 | 40 |
| Adherence Participant Feedback Form | 1 | 360 | 0.167 | 60 |
| Neuropsychiatric Participant Feedback Form Non-Physicians | 1 | 240 | 0.167 | 40 |
| **Sessions 6 hours or longer** | | | | |
| Pre-Training Participant Inventory | 1 | 480 | 0.167 | 80 |
| Post-Training Participant Inventory | 1 | *480 | 0.25 | 120 |
| Neuropsychiatric Pre-Training Participant Inventory | 1 | 240 | 0.167 | 40 |
| Neuropsychiatric Post-Training Participant Inventory | 1 | *240 | 0.25 | 60 |
| Total | ..... | 5,040 | ..... | 1,000 |

TABLE 2.—BEHAVIORAL HEALTH PROFESSIONAL ASSOCIATION TRAINING INITIATIVE

| Form | Responses/ respondent | Estimated number of respondents | Estimated hours/response | Total hours |
|---|---|---|---|---|
| **Behavioral Health Professional Association Training Initiative—3 Sites** | | | | |
| **All Sessions—One form per session completed by Program staff/trainer** | | | | |
| Session Report Form | 1 | 171 | 0.08 | 14 |
| **Sessions less than 6 hours** | | | | |
| Participant Feedback Form | 1 | 1,200 | 0.167 | 200 |
| Neuropsychiatric Participant Feedback Form | 1 | 720 | 0.167 | 120 |
| Ethics Participant Feedback Form | 1 | 360 | 0.167 | 60 |
| Adherence Participant Feedback Form | 1 | 540 | 0.167 | 90 |
| Neuropsychiatric Participant Feedback Form Non-Physicians | 1 | 240 | 0.167 | 40 |
| **Sessions 6 hours or longer** | | | | |
| Pre-Training Participant Inventory | 1 | 120 | 0.167 | 20 |
| Post-Training Participant Inventory | 1 | *120 | 0.25 | 30 |
| Neuropsychiatric Pre-Training Participant Inventory | 1 | 240 | 0.167 | 40 |
| Neuropsychiatric Post-Training Participant Inventory | 1 | *240 | 0.25 | 60 |
| Total | ..... | 3,591 | ..... | 674 |

TABEL 3.—COMBINED ANNUAL BURDEN ESTIMATE

| Form | Responses per respondent | Estimated number of respondents | Estimated hours/response | Total hours |
|---|---|---|---|---|
| **Behavioral Health Professional Association Training Initiative—3 Sites** | | | | |
| **All Sessions—One form per session completed by Program staff/trainer** | | | | |
| Session Report Form | 1 | 411 | 0.08 | 33 |
| **Sessions less than 6 hours** | | | | |
| Participant Feedback Form | 1 | 4,200 | 0.167 | 701 |
| Neuropsychiatric Participant Feedback Form | 1 | 960 | 0.167 | 160 |
| Ethics Participant Feedback Form | 1 | 600 | 0.167 | 100 |
| Adherence Participant Feedback Form | 1 | 900 | 0.167 | 150 |
| Neuropsychiatric Participant Feedback Form Non-Physicians | 1 | 480 | 0.167 | 80 |
| **Sessions 6 hours or longer** | | | | |
| Pre-Training Participant Inventory | 1 | 600 | 0.167 | 100 |
| Post-Training Participant Inventory | 1 | *600 | 0.25 | 150 |
| Neuropsychiatric Pre-Training Participant Inventory | 1 | 480 | 0.167 | 80 |

TABEL 3.—COMBINED ANNUAL BURDEN ESTIMATE—Continued

| Form | Responses per respondent | Estimated number of respondents | Estimated hours/response | Total hours |
|---|---|---|---|---|
| Neuropsychiatric Post-Training Participant Inventory | 1 | *480 | 0.25 | 120 |
| Total | | 8,631 | | 1,674 |

*Since the same individuals complete the pre-and post-training forms, these numbers are not included in calculating the total number of respondents.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Lauren Wittenberg, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: July 26, 2001.

**Richard Kopanda,**

*Executive Officer, SAMHSA.*

[FR Doc. 01–19121 Filed 7–31–01; 8:45 am]

**BILLING CODE 4162–20–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

**AGENCY:** Substance Abuse and Mental Health Services Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925, June 9, 1994). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This Notice is also available on the internet at the following websites: *http://workplace.samhsa.gov; http://www.drugfreeworkplace.gov;* and *http://www.health.org/workplace.*

**FOR FURTHER INFORMATION CONTACT:** Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, 5600 Fishers Lane, Rockwall 2 Building, Room 815, Rockville, Maryland 20857; Tel.: (301) 443–6014, Fax: (301) 443–3031.

**SUPPLEMENTARY INFORMATION:**

Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection.

To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016, (Formerly: Bayshore Clinical Laboratory)

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400

Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800–541–4931 / 334–263–5745

Alliance Laboratory Services, 3200 Burnet Ave., Cincinnati, OH 45229, 513–585–9000, (Formerly: Jewish Hospital of Cincinnati, Inc.)

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 20151, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866/800–433–2750

Baptist Medical Center—Toxicology Laboratory 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783 (Formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Clinical Laboratory Partners, LLC 129 East Cedar St., Newington, CT 06111, 860–696–8115, (Formerly: Hartford Hospital Toxicology Laboratory)

Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215–2802, 800–445–6917

Cox Health Systems, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–269–3093, (Formerly: Cox Medical Centers)

Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, Building 38–H, P. O. Box 88–6819, Great Lakes, IL 60088–6819, 847–688–2045/847–688–4171

Diagnostic Services Inc., dba DSI 12700 Westlinks Drive, Fort Myers, FL 33913, 941–561–8200/800–735–5416

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31602, 912–244–4468

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC 1229, Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206–386–2672 / 800–898–0180. (Formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310

Dynacare Kasper Medical Laboratories,* 14940–123 Ave., Edmonton, Alberta, Canada T5V 1B4, 780–451–3702/800–661–9876

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 662–236–2609

Express Analytical Labs, 1301 18th Ave NW, Suite 110, Austin, MN 55912, 507–437–7322

Gamma-Dynacare Medical Laboratories,* A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall St., London, ONT, Canada N6A 1P4, 519–679–1630

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267

Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823 (Formerly: Laboratory Specialists, Inc.)

LabOne, Inc., 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–728–4064 (Formerly: Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984 (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 10788 Roselle Street, San Diego, CA 92121, 800–882–7272 (Formerly: Poisonlab, Inc.)

Laboratory Corporation of America Holdings, 1120 Stateline Road West, Southaven, MS 38671, 866–827–8042/800–233–6339 (Formerly: LabCorp Occupational Testing Services, Inc., MedExpress/National Laboratory Center)

Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449 715–389–3734/800–331–3734

MAXXAM Analytics Inc.,* 5540 McAdam Rd., Mississauga, ON, Canada L4Z 1P1, 905–890–2555 (Formerly: NOVAMANN (Ontario) Inc.)

Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43699, 419–383–5213

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 651–636–7466/800–832–3244

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, Minnesota 55417, 612–725–2088

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515

Northwest Drug Testing, a division of NWT Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 801–293–2300/800–322–3361 (Formerly: NWT Drug Testing, NorthWest Toxicology, Inc.)

One Source Toxicology Laboratory, Inc., 1705 Center Street, Deer Park, TX 77536, 713–920–2559 (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory)

Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–687–2134

Pacific Toxicology Laboratories, 6160 Variel Ave., Woodland Hills, CA 91367, 818–598–3110/800–328–6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory

Pathology Associates Medical Laboratories, 11604 E. Indiana Ave., Spokane, WA 99206, 509–926–2400/800–541–7891

PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Dr., Fort Worth, TX 76118, 817–215–8800 (Formerly: Harris Medical Laboratory)

Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372/800–821–3627

Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590 (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 4444 Giddings Road, Auburn Hills, MI 48326, 248–373–9120/800–444–0106 (Formerly: HealthCare/Preferred Laboratories, HealthCare/MetPath, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 800–842–6152 (Moved from the Dallas location on 03/31/01; Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 801 East Dixie Ave., Suite 105A, Leesburg, FL 34748, 352–787–9006x4343 (Formerly: SmithKline Beecham Clinical Laboratories, Doctors & Physicians Laboratory)

Quest Diagnostics Incorporated, 400 Egypt Rd., Norristown, PA 19403, 610–631–4600/800–877–7484 (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 506 E. State Pkwy., Schaumburg, IL 60173, 800–669–6995/847–885–2010 (Formerly: SmithKline Beecham Clinical Laboratories, International Toxicology Laboratories)

Quest Diagnostics Incorporated, 7470 Mission Valley Rd., San Diego, CA 92108–4406, 619–686–3200/800–446–4728 (Formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT), CORNING Nichols Institute, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, One Malcolm Ave., Teterboro, NJ 07608, 201–393–5590 (Formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratory)

Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405, 818–989–2520/800–877–2520 (Formerly: SmithKline Beecham Clinical Laboratories)

Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130

S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176,

Southwest Laboratories, 2727 W. Baseline Rd., Tempe, AZ 85283, 602–438–8507/800–279–0027

Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517–377–0520 (Formerly: St. Lawrence Hospital & Healthcare System)

St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 573–882–1273

Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260

Universal Toxicology Laboratories (Florida), LLC, 5361 NW 33rd Avenue, Fort Lauderdale, FL 33309, 954–717–0300, 800–522–0232x419 (Formerly: Integrated Regional Laboratories, Cedars Medical Center, Department of Pathology)

Universal Toxicology Laboratories, LLC, 9930 W. Highway 80, Midland, TX 79706, 915–561–8851/888–953–8851

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. DHHS, with the DHHS' National Laboratory Certification Program (NLCP) contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, the DHHS will recommend that DOT certify the laboratory (**Federal Register**, 16 July 1996) as meeting the minimum standards of the ''Mandatory Guidelines for Workplace Drug Testing'' (59 **Federal Register**, 9 June 1994, Pages 29908–29931). After receiving the DOT certification, the laboratory will be included in the monthly list of DHHS certified laboratories and participate in the NLCP certification maintenance program.

**Richard Kopanda,**

*Executive Officer, Substance Abuse and Mental Health Services Administration.*

[FR Doc. 01–18976 Filed 7–31–01; 8:45 am]

**BILLING CODE 4160–20–U**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Notice of Intent To Prepare Comprehensive Conservation Plans and Environmental Impact Assessments for Arrowwood National Wildlife Refuge, Pingree, ND and Sand Lake National Wildlife Refuge, Columbia, SD

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of intent.

**SUMMARY:** The U.S. Fish and Wildlife Service intends to gather information necessary to prepare Comprehensive Conservation Plans and associated environmental documents for the Arrowwood and Sand Lake National Wildlife Refuges located on the James River in North and South Dakota, respectively. The Service is issuing this Notice in compliance with its policy to advise other organizations and the public of its intentions and to obtain suggestions and information on the scope of issues to be considered in the planning process.

**DATES:** Written comments should be received by October 1, 2001.

**ADDRESSES:** Comments and requests for more information should be sent to: Arrowwood NWR Planning Project, U.S. Fish and Wildlife Service, 7745 11th Street SE., Pingree, ND 58476–8308; or to: Sand Lake NWR Planning Project, 39650 Sand Lake Drive, Columbia SD 57433.

**FOR FURTHER INFORMATION CONTACT:** Adam Misztal, Refuge Planner, Division of Planning, PO Box 25486, DFC, Denver, CO 80225; (303) 236–8145, extension 607.

**SUPPLEMENTARY INFORMATION:** The Service has initiated comprehensive conservation planning for the Arrowwood and Sand Lake National Wildlife Refuges for the conservation and development of their natural resources. These refuges are located on the James River in North and South Dakota, respectively. These Refuges are open to public use.

Comprehensive planning will develop management goals, objectives, and strategies to carry out the purposes of the Refuge and comply with laws and policies governing refuge management and public use of refuges.

The Service requests input as to what issues, affecting management or public use, should be addressed during the planning process. The Service is especially interested in receiving public input in the following areas:

—What makes these Refuges special for you?
—What problems or issues do you see affecting management or public use of these Refuges?
—What improvements do you recommend for these Refuges?
—What changes, if any, would you like to see in the management of these Refuges?

The Service has provided the above questions for your optional use. The Service has no requirement that you must provide information. The Planning Team developed these questions to facilitate finding out more information about individual issues and ideas. Comments received by the Planning Team will be used as part of the planning process; individual comments will not be referenced in our reports or directly responded to.

Opportunities will be provided for public input at open houses to be held near Arrowwood Refuge. Four open houses will be held to scope issues and concerns:

Tuesday, August 14, 2001; Jamestown Law Enforcement Center 205 6th Street SE., Jamestown ND, 4 p.m. to 7 p.m.; Edmunds/Pingree Community Center, Highway 281 South, Pingree, ND, 8 p.m. to 11 p.m.

Wednesday, August 15, 2001; Dakota Central Telecommunications Cooperative, 630 5th St. N, Carrington, ND, 4 p.m. to 7 p.m.; Kensal Community Café, 424 Main Street, 8 p.m. to 11 p.m.

Opportunities will be also provided for public input at open houses to be held near Sand Lake Refuge. Three open houses will be held to scope issues and concerns:

Tuesday, September 11, 2001; Hecla Community Center, Hecla, SD, 7 p.m. to 9 p.m.

Wednesday, September 12, 2001; Columbia Legion Building, Columbia, SD, 7 p.m. to 9 p.m.

Thursday, September 12, 2001; Brown County annex basement (community room), Aberdeen, SD, 7 p.m. to 9 p.m.

All information provided voluntarily by mail, phone, or at public meetings becomes part of the official public record (*i.e.*, names, addresses, letters of comment, input recorded during meetings). If requested under the Freedom of Information Act by a private citizen or organization, the Service may provide copies of such information.

The environmental impact assessment of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*). NEPA Regulations (40 CFR 1500–1508), other appropriate Federal laws and regulations, Executive Order 12996, the National Wildlife Refuge System Improvement Act of 1997, and Service policies and procedures for compliance with those regulations.

Dated: July 20, 2001.

**John A. Blankenship,**

*Deputy Regional Director, Denver, Colorado.*

[FR Doc. 01–19122 Filed 7–31–01; 8:45 am]

**BILLING CODE 4310–55–M**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Endangered and Threatened Species Permit Application

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of application.

The following applicants have applied for scientific research permits to conduct certain activities with endangered species pursuant to sections 10(a)(1)(A) and 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

**Permit Number TE045225**

*Applicant:* Gregory J. Lipps, Toledo, Ohio.

The applicant requests a permit to take (survey) the copperbelly water snake (Nerodia erythrogaster neglecta) and Lake Erie water snake (Nerodia sipedon insularum) in Ohio. The scientific research is aimed at enhancement of survival of the species in the wild.

**Permit Number TE045579**

*Applicant:* Michael A. Hoggarth, Westerville, Ohio.

The applicant requests a permit to take (capture, handle, and relocate) the purple cat's paw pearlymussel (Epioblasma obliquata obliquata) in Ohio. The scientific research is aimed at enhancement of survival of the species in the wild.

**Permit Number TE045581**

*Applicant:* Science Applications International Corporation, Oak Ridge, Tennessee

The applicant requests a permit to take (capture and relocate) Higgins' eye pearlymussel (Lampsilis higginsi) in the Upper Mississippi River in Illinois. The scientific research is aimed at enhancement of survival of the species in the wild.

**Permit Number TE045585**

*Applicant:* U.S. Geological Survey, Columbia, Missouri.

The applicant requests a permit to take (survey and collect) pallid sturgeon (Scaphirhynchus albus) in the Missouri River within Missouri. The scientific research is aimed at enhancement of survival of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive,Fort Snelling, Minnesota 55111 4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with this application are available for review by any party who requests a copy from the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, peter_fasbender@fws.gov, telephone (612) 713–5343, or Fax (612) 713–5292.

Dated: July 16, 2001.

**Charlie M. Wooley,**

*Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.*

[FR Doc. 01–19123 Filed 7–31–01; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Notice of Extension for Public Scoping Comments for the Preparation of an Environmental Impact Statement for the Proposed Exchange of Lands With Federal Interest on South Fox Island, Leelanau County, MI, Between the State of Michigan and a Private Citizen

**AGENCY:** Fish and Wildlife Service, Interior, lead; National Park Service, Interior, cooperating; Michigan Department of Natural Resources, cooperating.

**ACTION:** Notice of intent to prepare an Environmental Impact Statement; extension of comment period.

**SUMMARY:** This document announces a second extension of the comment period for an additional 30 days to allow further participation in the scoping process. For additional information, the original announcement regarding the notice of intent to prepare an Environmental Impact Statement was published in the **Federal Register** on May 16, 2001, beginning on page 27154. Copies of the document can be obtained by contacting the individuals listed in the original announcement.

The notice of intent and supplementary information can also be viewed via the internet at (http://midwest.fws.gov/nepa).

**DATES:** Written comments must be received on or before COB August 31, 2001.

**FOR FURTHER INFORMATION CONTACT:** For the various agencies, the contacts are: Mr. Craig A. Czarnecki, U.S. Fish and Wildlife Service, East Lansing Field Office, 2651 Coolidge Road, Suite 101, East Lansing, MI 48823, telephone: (517) 351–8470, facsimile: (517) 351–1443; or Mr. Jon Parker, U.S. Fish and Wildlife Service, Division of Federal Aid, Bishop Henry Whipple Building, 1 Federal Drive, Fort Snelling, MN 55111; telephone: (612) 713–5142, facsimile: (612) 713–5290; Ms. Elyse LaForest, National Park Service, 15 State Street, Boston, MA 02109, telephone: (617) 223–5190, facsimile: (617) 223–5164; Mr. Doug Erickson, Michigan Department of Natural Resources, Wildlife Division, P.O. Box 30444, Lansing, MI 48909–7944; telephone: (517) 335–4316, facsimile: (517) 373–6705.

Dated: July 17, 2001.

**Marvin E. Moriarty,**

*Acting Regional Director, Region 3, Fort Snelling, Minnesota.*

[FR Doc. 01–19124 Filed 7–31–01; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[WO–320–1330–PB–24 1A]**

### Extension of Approved Information Collection, OMB Approval Number 1004–0103

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is requesting the Office of Management and Budget (OMB) to extend an existing approval to collect information from applicants who apply to purchase mineral materials from public lands under regulations 43 CFR 3600 and 3610. BLM uses Form 3600–1 (Contract for the Sale of Mineral Materials) to collect information so that we can evaluate the environmental impacts of their proposals.

**DATES:** You must submit your comments to BLM at the address below on or before October 1, 2001. BLM will not necessarily consider any comments received after the above date.

**ADDRESSES:** You may mail comments to: Regulatory Affairs Group (630), Bureau of Land Management, Mailstop 401LS, 1849 C Street, NW., Washington, DC 20240.

You may send comments via Internet to: *WOComment@blm.gov.* Please include ''ATTN: 1004–0103'' and your name and return address in your Internet message.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** You may contact Durga N. Rimal on (202) 452–0372 (Commercial or FTS). Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1–

800–877–8330, 24 hours a day, seven days a week, to contact Mr. Rimal.

**SUPPLEMENTARY INFORMATION:** 5 CFR 1320.12(a) requires that we provide a 60-day notice in the **Federal Register** concerning a collection of information to solicit comments on:

(a) Whether the collection of information is necessary for the proper functioning of the agency, including whether the information will have practical utility;

(b) The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the information collection burden on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The Mineral Materials Act of 1947, as amended (Act), 30 U.S.C. 601 and 602, provides for the disposal of mineral materials, such as sand, gravel, and petrified wood from public lands by sale or free use. BLM implements disposing of such materials under 43 CFR 3600 and 3610. BLM will use Form 3600–1 to collect information to:

(1) Determine if the sale of mineral materials is in the public interest;

(2) Mitigate the environmental impacts of mineral materials development;

(3) Get fair market value for the materials sold; and

(4) Prevent trespass removal of the materials.

Applicants must submit a request in writing to BLM to purchase mineral materials. Specific information requirements are not stated in the regulations, but all sale agreements are make on the contract form approved by BLM.

Based upon BLM experience and recent tabulations of activity, we process approximately 2,800 contracts for mineral materials each year. The public reporting information collection burden takes 30 minutes. Depending on the complexity of the projects, actual time may vary from 15 minutes to several days to complete and compile supporting documentation. The estimated number of responses per year is 2,800. The estimated total annual burden is 1,475 hours.

BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of public record.

Dated: July 23, 2001.

**Michael H. Schwartz,**

*BLM Information Collection Clearance Officer.*

[FR Doc. 01–19211 Filed 7–31–01; 8:45 am]

**BILLING CODE 4310–54–M**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### Notice of Realty Action; Modified Competitive Sale of Public Lands; Arizona [Case No. AZA 31108]

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The following land has been found suitable for sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at not less than the estimated fair market value (FMV) of $57,000. The lands will not be offered for sale for at least 60 days following the date of this notice.

**Gila and Salt River Meridian, Arizona**

*T. 18 S., R. 10 E.*

Sec. 1, SW¼SW¼;

Sec. 2, lot 10.

The area described contains 69.19 acres.

In accordance with section 7 of the Taylor Grazing Act, 43 U.S.C. 315f, and Executive Order No. 6910, the described lands are hereby classified for disposal by sale. The described lands are classified for disposal and this proposed sale is in conformance with the Safford Resource Management Plan, dated December 1988 and amendment dated July 1994.

The land described is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action, or 270 days from the date of publication of this notice, whichever occurs first.

The land will be offered for sale at public auction beginning at 10:00 a.m. MST, on October 17, 2001, at 12661 East Broadway, Tucson, Arizona 85748. This sale will be by modified competitive procedures. TRRI, Inc., a Florida Corporation, formally known as Treasure/ Rockhound Ranches, Inc., a Florida Corporation, dba, Camper Ranch of America will be given the opportunity to meet the highest bid received at public auction. Sale will be by sealed bid only. The purpose of the sale is to resolve trespass/unauthorized uses and developments on the subject public lands.

All sealed bids must be submitted to the BLM's Tucson Field Office at 12661 East Broadway, Tucson, Arizona 85748, not later than 4:00 p.m. MTS, October 16, 2001. Bid envelopes must be marked on the left front corner with the file number AZA 31108 and sale date. Bids must be for not less than the appraised FMV specified in this notice. Each sealed bid shall be accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Department of Interior, BLM, for not less than 10 percent of the amount bid, plus a $50.00, filing fee for the mineral estate for the subject lands.

The patent, when issued, will contain certain reservations to the United States and will be subject to existing easements as outlined below:

1. A right-of-way is reserved for ditches and canals constructed by the authority of the United States under the authority of the Act of August 30, 1890 (26 Stat. 291; 43 U.S.C. 945).

2. The patent will be subject to all valid existing rights including a reservation for road rights-of-way in conjunction with the Pima County road network.

3. Any existing range improvements, e.g., fences, water troughs.

Federal law requires that all bidders must be U.S. citizens 18 years old or older, or in the case of corporations, be subject to the laws of any State of the U.S. Proof of these requirements must accompany the bid.

Under modified competitive sale procedures, an apparent high bid will be declared at public auction. The apparent high bidder and the designated bidder TRRI, Inc., a Florida Corporation, formerly known as Treasure/ Rockhound Ranches, Inc., a Texas corporation, dba, Camper Ranch of America will be notified. The designated bidder shall have thirty (30) days from the date of the sale to exercise the preference consideration given to meet the high bid and to submit a partial payment of 20% of the purchase price. Should the designated bidder fail to submit a bid that matches the apparent high bid within the specified time period, the apparent high bidder shall be declared high bidder. The remaining total purchase price for the land shall be paid within 180 days of the date of the sale.

The purchase price does not include a value for any existing range or other miscellaneous improvements nor does BLM warrant or confirm there is legal access to the subject parcels. Legal access to the subject property may have to be obtained from the adjacent property owners. The purchaser will not be required to reimburse the grazing lessee or Treasure/Rockhound Ranches, Inc., etc., for any existing range improvements since they are without

value. Improvements on the subject property include: A waste dump station, range fences and a slight overhang encroachment of less than 2 feet of a club house building's roof along the east property line.

Detailed information concerning the sale, including the reservations, procedures for and conditions of sale, and planning and environmental documents, is available at the Tucson Field Office, Bureau of Land Management, 12661 East Broadway, Tucson, Arizona 85748 during the office hours of 7:45 a.m. to 4:15 p.m.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Field Office Manager, Tucson Field Office, at the above address. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

Dated: July 5, 2001.

**Tony J. Herrell,**

*Field Office Manager.*

[FR Doc. 01–19210 Filed 7–31–01; 8:45 am]

**BILLING CODE 4310–32–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Personal Watercraft Use, Environmental Impact Statement, Glen Canyon National Recreation Area, Arizona and Utah

**AGENCY:** National Park Service, Department of the Interior.

**ACTION:** Notice of Intent (NOI) to prepare an environmental impact statement (EIS).

**SUMMARY:** Under the provisions of the National Environmental Policy Act of 1969, the National Park Service (NPS) will prepare an EIS to make reasoned decisions about whether to continue personal watercraft (PWC) use at Glen Canyon NRA. NPS will make the determination based on the unit's enabling statute, mission, management objectives, resources, values, and other uses, as well as PWCs' impacts on the unit. 65 FR 15078 (2000).

Consistent with *Bluewater Network* v. *Stanton,* No. CV02093 (D.D.C. 2000) and the settlement agreement approved by the court on April 11, 2001, the NPS will comply with NEPA by preparing an EIS. The EIS will evaluate various PWC use alternatives to determine their effects on water quality, air quality, soundscapes, wildlife, wildlife habitat, shoreline vegetation, visitor conflicts, safety, and other appropriate topics. NPS will consider various alternatives including: no action (continued PWC use until September 15, 2002 then no special regulation authorizing continued PWC use), continued PWC use under current management, and continued but limited PWC use under one or more management variations.

If NPS decides to continue PWC use after September 15, 2002, it will have to adopt a unit-specific special regulation. To implement this decision, the NPS will commence rulemaking by publishing a proposed rule to authorize PWC use at Glen Canyon NRA in the **Federal Register**.

NPS will consult with affected federal, state, local, and tribal entities to determine issues of mutual concern.

NPS will prepare a scoping brochure detailing the identified issues. In the near future, you may obtain a brochure copy by contacting: Superintendent, Glen Canyon NRA, P.O. Box 1507, Page, Arizona 86040, telephone: 520–608–6339, email: glca_pwc@nps.gov.

**Comments**

You may submit comments concerning the following: The EIS's scope, the issues to cover, the alternatives to consider, and other PWC resource concerns. You may submit your comments using mail, e-mail, or hand delivery.

Mail comments to Superintendent, Glen Canyon National Recreation Area, P.O. Box 1507, Page, AZ 86040. E-mail comments to glca_pwc@nps.gov. Include your name and address in your e-mail message. If you do not receive confirmation that we received your message, then call 520–608–6339. Hand deliver your comments to 691 Scenic View Drive, Page, Arizona.

During regular business hours, NPS will make available for public inspection the entire text of comments from individuals, organizations, and businesses (including representatives and officials from businesses or organizations). These comments will include respondents' names and addresses, unless they request that we withhold their names and addresses from the record; which we will honor to the extent allowable by law. If you wish to have NPS withhold your name and/or address, you must state this prominently at the beginning of your comment.

**Scoping Workshops**

In addition to the scoping brochure, the NPS expects to conduct scoping workshops to involve the public in the issue identification and the alternative development processes. Although NPS has not yet determined the workshop logistics, NPS will provide this information in the near future. You can get specific workshop locations, times, and dates by reading the scoping brochure, visiting the internet site at www.nps.gov/glca/plan.htm, or by contacting the Superintendent, Glen Canyon NRA, P.O. Box 1507, Page, Arizona 86040, telephone: 520–608–6339, e-mail; glca_pwc@nps.gov.

**FOR FURTHER INFORMATION CONTACT:** Contact the Superintendent, Glen Canyon NRA, P.O. Box 1507, Page, Arizona 86040, telephone: 520–608–6339, email: glca_pwc@nps.gov, www.nps.gov/glca/plan.htm.

**Karen Wade,**

*Director, Intermountain Region, National Park Service.*

[FR Doc. 01–19113 Filed 7–31–01; 8:45 am]

**BILLING CODE 4310–70–M**

## DEPARTMENT OF THE INTERIOR

### National Park Service

### National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 14, 2001. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW., NC400, Washington, DC 20240. Written comments should be submitted by August 16, 2001.

**Carol D. Shull,**

*Keeper of the National Register.*

**ARIZONA**

*Pima County*

Ajo Townsite Historic District, Blks. 1 through 31,Ajo, 01000877

**CALIFORNIA**

*Napa County*

Beringer Brothers—Los Hermanos Winery,2000 Main St.,Saint Helena, 01000878

**CONNECTICUT**

*Fairfield County*

Glover, John, House,53 Echo Valley Rd.,Newtown, 01000882

*Hartford County*

Colt Industrial District (Boundary Increase),34 Sequassen St., 1–3 and 17 Van Dyke Ave. and 47, 49, 50 and 53Vredendale Ave.,Hartford, 01000884

Manchester Historic District (Boundary Increase),Roughly bounded by E. Center, Harrison, Norman, Charter Oak, Main and Cottage Sts.,Manchester, 01000881

*Litchfield County*

Minortown Road Bridge,Minortown Rd. over Nonewaug R.,Woodbury, 01000883

*New Haven County*

Wooster Sawmill and Gristmill Site,Address Restricted,Oxford, 01000879

*New London County*

Springbank,69 Neck Rd.,Old Lyme, 01000880

**DELAWARE**

*New Castle County*

Cloud—Reese House,2202 Old Kennett Rd.,Wilmington, 01000885

*Sussex County*

Ross Point School,CR 448 near Jct. with Rt. 62,Laurel, 01000886

**FLORIDA**

*Indian River County*

Sebastian Grammar and Junior High School,1225 Main St.,Sebastian, 01000889

*Manatee County*

Stevens—Gilchrist House,(Whitfield Estates Subdivision MPS)235 Delmar Ave.,Sarasota, 01000887

*Palm Beach County*

House at 1240 Dickenson Road,1240 Dickenson Rd.,Boca Raton, 01000888

*St. Lucie County*

Moores Creek Bridge, N. 2nd St. between Aves. B and C,Fort Pierce, 01000890

**NEW JERSEY**

*Bergen County*

New Milford Plant of the Hackensack Water Company,New Milford Ave.,Oradell, 01000891

**NEW YORK**

*Chenango County*

Pitcher Baptist Church and First Congregational Church of Pitcher,NY 26,Pitcher, 01000893

*Delaware County*

Hubbell Family Farm and Kelly's Corners Cemetery,NY 30,Kelly's Corners, 01000892

**OHIO**

*Cuyahoga County*

Cleveland Masonic Temple,3615 Euclid Ave.,Cleveland, 01000894
Waterman Service Building,3030 E. 63rd St.,Cleveland, 01000897
West Technical High School,2201 W. 93rd St.,Cleveland, 01000898

*Gallia County*

Gallipolis Historic District,Roughly bounded by 3rd Ave., Vine and Spruce Sts. and the Ohio R.,Gallipolis, 01000899

*Montgomery County*

Stivers High School,1313 E. 5th St.,Dayton, 01000896

*Portage County*

Kent Jail,947 Middlebury Rd.,Kent, 01000895

*Washington County*

Marietta Historic District (Boundary Increase),Roughly bounded by Marion, Montgomery, Ohio, Greene, Butler, 2nd through 9th Sts., and Ohio and Muskingum Rs.,Marietta, 01000903

**WISCONSIN**

*Outagamie County*

West Prospect Avenue Historic District,315–330 West Prospect Ave.,Appleton, 01000900

[FR Doc. 01–19114 Filed 7–31–01; 8:45 am]

**BILLING CODE 4310–70–P**

## INTERNATIONAL TRADE COMMISSION

**[Inv. No. 337–TA–441]**

### In the Matter of Certain Field Programmable Gate Arrays and Products Containing Same; Notice of a Commission Determination Not To Review an Initial Determination Amending the Notice of Investigation To Add a Patent Claim to the Scope of the Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ's'') initial determination (''ID'') granting a motion to amend the notice of investigation to add a patent claim to the scope of the investigation.

**FOR FURTHER INFORMATION:** Tim Yaworski, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 205–3096.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on December 21, 2000, based on a complaint by Xilinx, Inc. of San Jose, California, alleging that respondent Altera Corporation, also of San Jose, California, violated section 337 of the Tariff Act of 1930 by importing and selling certain field programmable gate arrays and products containing same by reason of infringement of, inter alia, claims 1 and 3 of U.S. Letters Patent 5,432,719 (''the '719 patent''). 65 FR 80454.

On February 9, 2001, the Commission investigative attorney (''IA'') filed an unopposed motion to amend the notice of investigation to add claim 2 of the '719 patent to the scope of the investigation.

On July 11, 2001, the presiding ALJ issued an ID (Order No. 6) granting the IA's motion. No petitions for review of the ID were filed.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and Commission rule 210.42, 19 CFR 210.42. Copies of the subject ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TTD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (http://www/usitc.gov). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at http://dockets.usitc.gov/eol/public.

By order of the Commission.

Issued: July 27, 2001.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 01–19192 Filed 7–31–01; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigations Nos. 731–TA–736–737 (Review)]**

### Large Newspaper Printing Presses From Germany and Japan

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of five-year reviews concerning the antidumping duty orders on large newspaper printing presses from Germany and Japan.

**SUMMARY:** The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on large newspaper printing presses from Germany and Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be

[1] No repsonse to this request for information is required if a currently valid Office of Management

assured of consideration, the deadline for responses is September 20, 2001. Comments on the adequacy of responses may be filed with the Commission by October 15, 2001. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**EFFECTIVE DATE:** August 1, 2001.

**FOR FURTHER INFORMATION CONTACT:** Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at http://dockets.usitc.gov/eol/public.

**SUPPLEMENTARY INFORMATION:**

**Background**

On September 4, 1996, the Department of Commerce issued antidumping duty orders on imports of large newspaper printing presses from Germany and Japan (61 F.R. 46621). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

**Definitions**

The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are Germany and Japan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission defined the Domestic Like Product as all large newspaper printing presses, press additions, components, and elements.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the Domestic Industry as producers of large newspaper printing presses, press additions, components, and elements. The Commission found that appropriate circumstances exist to exclude TKS (USA) from the domestic industry as a related party.

(5) The *Order Date* is the date that the antidumping duty orders under review became effective. In these reviews, the Order Date is September 4, 1996.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

**Participation in the Reviews and Public Service List**

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

**Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List**

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

**Certification**

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 01–5–064, expiration date July 31, 2002. Public reporting burden for the request is estimated to avera 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office fo Investigations, U.S. International Trade Commission, 500 E Street, SE., Washington, DC 20436.

**Written Submissions**

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is September 20, 2001. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is October 15, 2001. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

**Inability To Provide Requested Information**

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

**Information To Be Provided in Response to This Notice of Institution**

If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in each Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1995.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2000 (report quantity data in units and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 2000 (report quantity data in units and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from each Subject Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from each Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from each Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 2000 (report quantity data in units and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in each Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an

estimate of the percentage of total exports to the United States of Subject Merchandise from each Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in each Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in each Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

**Authority:** These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: July 23, 2001.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 01–19206 Filed 7–31–01; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 332–350 and 332–351]**

## Monitoring of U.S. Imports of Tomatoes; Monitoring of U.S. Imports of Peppers

**AGENCY:** United States International Trade Commission.

**ACTION:** Publication of monitoring reports in 2001.

**SUMMARY:** The Commission hereby gives notice of its intention to publish the results of its monitoring of U.S. imports of tomatoes and U.S. imports of peppers, other than chili peppers, in November 2001. Although section 316 of the North American Free-Trade Agreement Implementation Act (NAFTA Implementation Act), 19 U.S.C. 3381, does not require that the Commission publish reports on the results of its monitoring activities, the initial notices of investigation for these studies indicated that the Commission planned to publish reports on the monitoring annually. Subsequently, the Commission has published statistical reports in those years in which it was not conducting an investigation under other statutory authority with respect to such products. The most recent monitoring reports were published in November 2000.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201).

**EFFECTIVE DATE:** July 19, 2001.

**FOR FURTHER INFORMATION CONTACT:** Tim McCarty (202–205–3324) or Cathy Jabara (202–205–3309), Agriculture and Forest Products Division, Office of Industries, U.S. International Trade Commission, 500 E Street, SW, Washington DC, 20436, for general information, or William Gearhart (202–205–3091), Office of the General Counsel, U.S. International Trade Commission, for information on legal aspects. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on (202) 205–1810. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS–ON LINE) at *http://dockets.usitc.gov/eol/public.*

**SUPPLEMENTARY INFORMATION:**

### Background

Section 316 of the North American Free-Trade Agreement Implementation Act (NAFTA Implementation Act) directs the Commission to monitor imports of fresh or chilled tomatoes (HTS heading 0702.00) and fresh or chilled peppers, other than chili peppers (HTS subheading 0709.60.00), until January 1, 2009. As a result of such monitoring, the domestic industry producing a like or directly competitive perishable agricultural product may request, in a global safeguard petition filed under section 202 of the Trade Act of 1974 or a bilateral safeguard petition filed under section 302 of the NAFTA Implementation Act, that provisional relief be provided pending completion of a full section 202 or 302 investigation. If provisional relief is requested, the Commission has 21 days in which to make its determination and to transmit any provisional relief recommendation to the President. In response to the monitoring directive, the Commission instituted investigation No. 332–350, Monitoring of U.S. Imports of Tomatoes (59 FR 1763) and investigation No. 332–351, Monitoring of U.S. Imports of Peppers (59 FR 1762).

### Written Submissions

The Commission does not plan to hold a public hearing in connection with the preparation of the 2001 statistical reports. However, interested persons are invited to submit written statements concerning the matters to be addressed in the reports. Commercial or financial information which a submitter desires the Commission to treat as confidential must be provided on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary of the Commission for inspection by interested persons. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission in accordance with section 201.8 of the Commission's rules at the earliest practical date and should be received no later than the close of business on August 30, 2001. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436.

By order of the Commission.

Issued: July 27, 2001.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 01–19191 Filed 7–31–01; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

### Agency Information Collection Activities: Comment Request

**ACTION:** Notice of Information Collection Under Review; Canadian Border Boat Landing Permit.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until October 1, 2001.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Canadian Border Boat Landing Permit.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–68. Inspections Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. Section 235 of the INA provides for the inspection of persons entering the United States form Canada by small craft to be inspected only once during the navigational season, rather than each time they enter.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 68,000 responses at 10 minutes (.166 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 11,288 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 1331 Pennsylvania Avenue, NW., suite 1220, Washington, DC 20530.

Dated: August 25, 2001

**Richard A. Sloan,**

*Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.*

[FR Doc. 01–19092 Filed 7–31–01; 8:45 am]

**BILLING CODE 4410–01–M**

## DEPARTMENT OF JUSTICE

### National Institute of Corrections

### Solicitation for a Cooperative Agreement-Development of the Transition and Activation for Juvenile Facilities Curriculum

**AGENCY:** National Institute Corrections, DOJ.

**ACTION:** Solicitation for a Cooperative Agreement.

**SUMMARY:** The project will result in the development of a curriculum that will help prepare juvenile practitioners charged with the transition to and activation of newly built or renovated juvenile facilities.

**Project Objectives**

The award recipient will:

- Establish the project team.
- Finalize the program agenda.
- Coordinate the project team in developing the lesson plans and all related training materials.
- Identify potential trainers and facilitators.
- Participate in the pilot program.
- Make recommendations and revise program and materials as necessary.

**Scope of Work**

*Background and Purpose*

The National Institute of Corrections (NIC) is Federal agency operating with the U.S. Department of Justice. Its mission is to deliver information, training and technical assistance to Federal, state and local correctional agencies that will allow them to improve their programs, services and operations.

In recent years the number of juvenile justice agencies planning and constructing secure facilities to house juvenile has begun to increase. Like any facility designed to detain and/or incarcerate offenders, these buildings are complex structures requiring complex processes and procedures to operate. Once designed and built practitioners are left with the task of ensuring the new facility functions as designed and in a manner that meets its mandates and mission. The transition to or activation of a new facility requires a great deal of planning. Hundreds of policy and administrative decisions involving programs, services and operations are required. These decisions drive thousands of detailed procedures, schedules, inspections, activities, moving and training plans, and the resultant documentation. This training will help prepare practitioners for this major undertaking by presenting options for offender programming supported by experience and research, plus various approaches to the organization of the transition and activation effort.

*Design and Implementation*

The award recipient will develop a training program for juvenile justice agencies who are planning and constructing new juvenile facilities. This curriculum will be based on a rough agenda previously developed by a work group consisting of juvenile practitioners who have designed and activated facilies, plus resource provides who have worked with, and delivered training specifically addressing the process of transition and activation. The curriculum will include the final agenda, lesson plans and all related training materials. In addition, the recipient will make recommendations regarding potential trainers and program revisions following a pilot presentation.

The following presents a description of the project, the work activities required for completion, and the project deliverable. It also sets forth the expectation of the relationship between the National Institute of Corrections, the NIC Academy Correctional Program Specialist assigned to the project and the resource provider to whom the cooperative agreement is warded.

A. Description

The singular focus of this cooperative agreement will be the development of a training program designed to assist juvenile justice practioners charged with moving into and activating new or renovated juvenile facilities. This will include the design, review, pre-pilot revisions and post-pilot revisions of the program materials.

It is anticipated that the program will be approximately 36 hours in length. Once developed, piloted and revised a necessary, the program may be held at the NIC Training Center in Longmont, Colorado, or a regional sites around the country.

The process of transition and activation usually involves a wide variety of individuals. Some will have a direct role in the operation of the facility, while others will be significant stakeholders and users. Still others will be only tangentially involved, but must be kept informed of the transition team's progress, and later the facility's ongoing operations. Consequently, the program is likely to be presented for jurisdictional teams. Minimally, this team should consist of the assigned transition coordinator and the facility director. As the curriculum develops, the award recipient will be expected to make recommendations regarding the size and composition of the team.

B. The Work To Be Performed

*Program Development Activities*

1. Consult with the NIC Academy Division Correctional Program Specialist (CPS) assigned to manage the project to ensure understanding of, and agreement on, the scope of work to be performed.

2. Identify members of the project work team and submit to the NIC Academy CPS for approval.

3.Develop and submit a detailed work plan to the NIC Academy CPS for approval. This work plan must include, but may not be limited to:

- The tasks or activities which need to be accomplished to complete the project;
- An identification of how and to whom the tasks or activities will be assigned;
- Time lines for accomplishing project activities; and
- The anticipated number of project team meetings, plus the purpose for and project members to attend each meeting.

The applicant will include all costs associated with the above referenced project meetings in the budget proposal, excluding airfares.

4. Develop the program agenda to be used for the pilot program and submit it to the NIC Academy CPS for approval.

5. Offer a recommendation regarding the use of a recently constructed and occupied facility as a part of the curriculum. Such a recommendation will include an explanation as to how this will support the curriculum, enhance the learning experience, and identify one or more potential sites.

6. After initial development, submit drafts of all training materials to the NIC Academy CPS for review, discussion and approval. Make revisions as necessary.

**Note:** Training materials will include, but may not be limited to, lesson plans, overhead transparencies or computer generated visual aids, checklists, practical application exercises and accompanying materials, a comprehensive inventory of all required equipment and supplies, resource materials and supplemental readings, a participant manual or workbook, and an action planning guidebook to be completed by the participant teams.

*Pilot Program Activities*

1. At a minimum practitioners who will attend the training will be the assigned transition coordinator and the facility director. If appropriate, the recipient will recommend other positions or individuals who should be included on the agency's participant team.

2. Consult with the NIC Academy CPS regarding potential trainers and presenters for program delivery. The Institute will have final approval of the program's training staff.

3. Attend, participate in, and observe the pilot program. The applicant will include all costs associated with this participation in the proposed budget, excluding the airfares.

4. Prepare and submit a report containing observations and recommendations from the pilot program. Observations will be derived from interaction with the participants, participant and staff comments, and participant evaluations. It should also include recommendations regarding marketing and agency selection criteria.

5. Work with the NIC Academy CPS to determine the final changes to be made to the curriculum. If necessary, conduct a post-pilot project meeting to finalize the required revisions. The applicant will include all costs associated with the above referenced project meeting in the budget proposal, excluding airfares. Make final curriculum revisions.

*Products and Deliverables*

1. Complete and submit a final report summarizing the project and including overall observations and/or recommendations not addressed as a part of the curriculum revisions.

2. Prepare curriculum using Corel WordPerfect 9 software and Corel Presentations.

3. Submit two compact disks containing final copies of all lesson plans, visual aids, training exercises, participant manuals or workbooks, and all other associated training materials, plus two hard copies in ''camera ready'' form.

All material produced will become the property of the U.S. Government and will be delivered to NIC upon completion of the project. Under no circumstances shall the recipient conduct a training program or use participant materials to market the recipient's services.

**Rough Draft of Agenda: How To Open and Operate New Institutions for Juveniles**

*DAY 1*

A. Overview of Process
   Expectations, concerns, transition budget, task force development
B. Strategic Planning
C. Organizational Culture
D. Management Styles
E. Values
F. Mission and Vision

2. Factors Impacting Operations and Programming

A. Office of Juvenile Justice and Delinquency Prevention (OJJDP) Mandates
B. Unique Problems and Trends
C. Over-representation of Minorities

*DAY 2*

A. Operational Planning and Programming
   1. OJJDP Mandates and Best Practices
   2. Research-based Programming and Strategies
   3. Performance-based Standards
   4. Inter-Agency Coordination
   5. Intra-Agency Coordination
B. Facility Scheduling

*DAY 3*

A. Scenarios
B. Policies and Procedures
C. Post Orders/P.D.
D. Resident Orientation

*DAY 4*

A. Task Force Management and Structure
B. New Facility Training
C. Move Logistics
D. Program Evaluation
End of Agenda.

**Authority:** Public Law 93–415.

*Funds Available:* The award will be limited to $80,000 (direct and indirect costs) and project activity must be completed within 10 months of the date of award. Funds may not be used for construction, or to acquire or build real property. This project will be a collaborative venture with the NIC Academy Division.

*Deadline for Receipt of Applications:* Applications must be received by 4:00 p.m. Eastern Daylight Savings Time on August 30, 2001. They should be addressed to: Director, National Institute of Corrections, 320 First Street, NW., Room 5007, Washington, DC 20534. Hand delivered applications should be brought to 500 First Street, NW., Washington, DC 20534. The front desk will call Bobbi Tinsley at (202) 307–3106, extension 0 for pick-up.

**ADDRESSES AND FURTHER INFORMATION:** A copy of this announcement and application forms may be obtained through the NIC web site: *http://www.nicic.org* (click on ''Cooperative Agreements''). If a written copy is needed contact Judy Evens, Cooperative Agreement Control Office (1–800–995–6423 x 44222) or (202) 307–3106 ext. 44222, email at *jevens@bop.gov.)* All technical and/or programmatic questions concerning this announcement should be directed to Dee Halley at 1960 Industrial Circle, Longmont, Colorado, or by calling (800) 995–6429, ext. 116 or (303) 682–0382 or by E-mail via dhalley@bop.gov.

*Eligibility of Applicants:* An eligible applicant is any public or private agency, educational institution, organization, team, or individual with the requisite skills to successfully meet the outcome objective of the project. Applicants must have experience in juvenile justice and corrections, relevant experience activating juvenile facilities and the demonstrated ability to design, develop and implement training.

*Review Considerations:* Applications received under this announcement will be subjected to an NIC 3 to 5 member Peer Review Process.

*Number of Awards:* One (1).

*NIC Application Number:* 01A03. This number should appear as a reference line in your cover letter and also in box 11 of Standard Form 424.

*Executive Order 12372:* Project is not subject to the provisions of this Executive Order.

*Catalog of Federal Domestic Assistance Number:* 16.601—Title: Corrections—Training and Staff Development

Dated: July 26, 2001.

**Morris L. Thigpen,**

*Director, National Institute of Corrections.*

[FR Doc. 01–19110 Filed 7–31–01; 8:45 am]

**BILLING CODE 4410–36–M**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Submission for OMB Review; Comment Request

July 10, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at ((202) 693–4158 or Email *Howze-Marlene@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Type of Review:* Revision of a currently approved collection.

*Agency:* Bureau of Labor Statistics (BLS).

*Title:* National Compensation Survey.

*OMB Number:* 1220–0164.

*Affected Public:* Business or other for-profit; Not-for-profit institutions; and State, Local, or Tribal Government.

*Frequency:* Quarterly and Annually.

*Number of Respondents:* 43,228 (three-year average).

*Number of Annual Responses:* 70,886 (three-year average).

*Estimated Time Per Response and Total Burden Hours:*

| Form | Total respondents | Frequency | Total responses | Average minutes | Estimated total burden (In hours) |
|---|---|---|---|---|---|
| Establishment Collection Form (NCS Form 01–1G). | 0 | Annually or Quarterly | 0 | 21 | 0 |
| Establishment Collection Form (NCS Form 01–1P). | 10,983 | Annually or Quarterly | 10,983 | 21 | 3,844 |
| Earning Form (NCS Form 01–2G) | 0 | Annually or Quarterly | 0 | 20 | 0 |
| Earning Form (NCXS Form 01–2P) | 10,983 | Annually or Quarterly | 10,983 | 20 | 3,661 |
| Computer Generated Earnings Update Form. | 25,945 | Annually or Quarterly | 49,767 | 20 | 16,589 |
| Work Level Form (NCS Form 01–3G). | 0 | Annually or Quarterly | 0 | 31 | 0 |
| Work Level Form (NCS Form 01–3P) | 10,983 | Annually or Quarterly | 10,983 | 31 | 5,675 |
| Informed consent (NCS 99–5) | [1] Unknown | Unknown | Unknown | Negligible | Negligible |
| Work Schedule Form (NCS 01–4G) | 0 | Annually or Quarterly | 0 | 10 | 0 |
| Work Schedule Form (NCS 01–4P) | 10,983 | Annually or Quarterly | 10,983 | 10 | 1,831 |

| Form | Total respondents | Frequency | Total responses | Average minutes | Estimated total burden (In hours) |
|---|---|---|---|---|---|
| Benefits Collection Form (NCS 01–5G). | 0 | Annually or Quarterly | 0 | 180 | 0 |
| Benefits Collection Form (NCS 01–5P). | 5,533 | Annually or Quarterly | 5,533 | 180 | 0 |
| Summary of Benefits (Benefit Update Form SO–1003) is computer generated. | 10,033 | Quarterly | 33,611 | 20 | 11,204 |
| Collection not tied to a specific form (testing, QA/QM, etc.). | 9,859 | Unknown | 9,859 | 5–60 | 7,190 |
| Totals | 95,302 | | 142,702 | | 66,593 |

[1] Dependent upon number of respondents who elect to have third parties provide data.

*Total Annualized Capital/Startup Costs:* $0.

*Total Annual Costs (operating/maintaining systems or purchasing services):* $0.

*Description:* The National Compensation Survey integrates three BLS programs; NCS wage program (former OCSP), the Employment Cost Index (ECI), and the Employee Benefits Survey (EBS). Data are collected from both the private non-farm economy and State and local governments. Data produced from this survey are critical in determining pay increases for Federal workers; in determining monetary policy; and for use by compensation administrators and researchers in the private sector.

*Type of Review:* Revision of a currently approved collection.

*Agency:* Bureau of Labor Statistics (BLS).

*Title:* National Longitudinal Survey of Youth 1997.

*OMB Number:* 1220–0157.

*Affected Public:* Individuals or households and not-for-profit institutions (public and private high schools).

*Frequency:* Annually.

*Number of Respondents:* 16,251.

*Number of Annual Responses:* 17,151.

*Estimated Time Per Response and Total Burden Hours:*

| Form | Total respondents | Frequency | Total responses | Average minutes | Estimated total burden (In hours) |
|---|---|---|---|---|---|
| Transcript Request and School Information. | 4,441 | Once | 4,441 | 30 | 2,221 |
| Youth Interview | 8,436 | Annually | 8,436 | 60 | 8,436 |
| Youth Validation Re-interview | 900 | Annually | 900 | 6 | 90 |
| Household Income Update Form | 3,374 | Annually | 3,374 | 4 | 225 |
| Totals | 16,251 | | 17,151 | | 10,972 |

*Total Annualized Capital/Startup Costs:* $0.

*Total Annual Costs (operating/maintaining systems or purchasing services):* $0.

*Description:* The Department of Labor (DOL), other government agencies, academic researchers, the news media, and the general public will use the information obtained in this survey to understand the employment experiences and school-to-work transitions of young men and women born in the years 1980 to 1984. These respondents were ages 12–17 when the first round of annual interviews began in 1997; the fourth round of annual interviews is being conducted from November 2000 to May 2001. The longitudinal focus of this survey requires information to be collected from the same individuals over many years in order to trace their education, training, work experience, fertility, income and program participation.

*Type of Review:* Revision of a currently approved collection.

*Agency:* Bureau of Labor Statistics (BLS).

*Title:* Labor Market Information (LMI) Cooperative Agreement.

*OMB Number:* 1220–0079.

*Affected Public:* State, Local, or Tribal Government.

*Frequency:* Monthly, Quarterly and Annually.

*Number of Respondents:* 55.

*Number of Annual Responses:* 832.

| Form | Total respondents | Frequency | Total responses | Average minutes | Estimated total burden (In hours) |
|---|---|---|---|---|---|
| Work Statements | 55 | 1 | 55 | 1–2 hrs | 55–110 |
| BIF (LMI 1A, 1B) | 55 | 1 | 55 | 1–6 hrs | 55–330 |
| Quarterly Automated Financial Reports | 48 | 4 | 192 | 10–50 min | 32–160 |
| Monthly Automated Financial Reports | 48 | *8 | 384 | 5–25 min | 32–160 |
| BLS Cooperative Statistics Financial Report (LMI 2A) | 7 | 12 | 84 | 1–5 hrs | 84–420 |
| Quarterly Status Report (LMI 2B) | 1–30 | 4 | 4–120 | 1 hr. | 4–120 |
| Total | 1–55 | | 774–890 | | 264–1300 |

| Form | Total respondents | Frequency | Total responses | Average minutes | Estimated total burden (In hours) |
|---|---|---|---|---|---|
| Average Totals | 55 | | 832 | | 781 |

*Reports are not received for end-of-quarter months, i.e., December, March, June, and September.

*Total Annualized Capital/Startup Costs:* $0.

*Total Annual Costs (operating/maintaining systems or purchasing services):* $0.

*Description:* The LMI Cooperative Agreement (CA) includes all information needed by the State Employment Security Agencies (SESAs) to apply for funds to assist them to operate one or more of the five LMI programs operated by the Bureau of Labor Statistics, and, once awarded, report on the status of obligation and expenditure of funds as well as close out the Cooperative Agreement. Information collected under the CA is used by Federal regional and national office staffs to carry out their fiduciary responsibilities to negotiate the CA funding levels with the SESAs, monitor their financial and programmatic performance, and monitor their adherence to administrative requirements imposed by 29 CFR part 97.

**Ira L. Mills,**

*DOL Clearance Officer.*

[FR Doc. 01–19115 Filed 7–31–01; 8:45 am]

**BILLING CODE 4510–24–P**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Submission for OMB Review; Comment Request

July 20, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

*Type of Review:* Extension of a currently approved collection.

*Agency:* Bureau of Labor Statistics (BLS).

*Title:* Employment, Wages, and Contributions Program—ES–202.

*OMB Number:* 1220–0012.

*Affected Public:* State, Local, or Tribal Government.

*Frequency:* Quarterly.

*Number of Respondents:* 53.

*Number of Annual Responses:* 212.

*Estimated Time Per Response:* 4,503.

*Total Burden Hours:* 954,720.

*Total Annualized Capital/Startup Costs:* $0.

*Total Annual Costs (operating/maintaining systems or purchasing services):* $0.

*Description:* ES–202 data, which are provided to BLS by State Employment Security Agencies, are critical to the Administration of Unemployment Insurance programs, are used by the Bureau of Economic Analysis as an input to personal income estimates, serve as the sampling frame and benchmark for most BLS employment surveys, and are used for economic analysis.

**Ira L. Mills,**

*Departmental Clearance Officer.*

[FR Doc. 01–19117 Filed 7–31–01; 8:45 am]

**BILLING CODE 4510–24–M**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Submission for OMB Review; Comment Request

July 24, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: Stuart Shapiro, OMB Desk Officer for MSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

*Type of Review:* Extension of a currently approved collection.

*Agency:* Mine Safety and Health Administration (MSHA).

*Title:* Operations Under Water—30 CFR 75.1716, 75.1716–1, and 75.1716–3.

*OMB Number:* 1219–0020.
*Affected Public:* Business or other for-profit.
*Frequency:* On occasion.
*Number of Respondents:* 10.
*Number of Annual Responses:* 10.
*Estimated Time Per Response:* 5 hours.
*Total Burden Hours:* 50.
*Total Annualized Capital/Startup Costs:* $0.
*Total Annual Costs (operating/maintaining systems or purchasing services):* $0.
*Description:* 30 CFR 75.1716, 75.1716–1, and 75.1716–3 require coal mine operators to provide MSHA written notification and to obtain a permit to mine under a body of water if, in the judgment of the Secretary of Labor, it is sufficiently large enough to constitute a hazard to miners.

**Ira Mills,**
*Departmental Clearance Officer.*
[FR Doc. 01–19118 Filed 7–31–01; 8:45 am]
**BILLING CODE 4510–43–M**

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Federal-State Unemployment Compensation Program; Unemployment Insurance Program Letter Interpreting Federal Unemployment Insurance Law

The Employment and Training Administration interprets Federal Law requirements pertaining to unemployment compensation (UC) as part of its role in the administration of the Federal-State UC program. These interpretations are issued in Unemployment Insurance Program Letters (UIPLs) to the State Employment Security Agencies. The UIPL described below is published in the **Federal Register** in order to inform the public.

**UIPL 38–01**

UIPL 38–01 informs State of the amendments made by the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107–16) affecting the Federal-State UC program.

Public Law 107–16 affected the UC program in two ways. First, the voluntary withholding rate on UC benefits has been reduced from 15 percent to 10 percent. Second, the exclusion of employer-provided educational assistance from the definition of wages in the Federal Unemployment Tax Act has been extended to graduate education and has been made permanent.

Dated: June 23, 2001.
**David Dye,**
*Acting Assistant Secretary of Labor.*
*Directive:* UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 38–01.
*To:* All State Employment Security Administrators.
*From:* Grace A. Kilbane, Administrator, Office of Workforce Security.
*Subject:* Income Tax Withholding from Unemployment Compensation (UC) and Treatment of Employer-provided Educational Assistance.

1. *Purpose.* To advise states of the provisions of Public Law (Pub. L.) 107–16 relating to the UC program.

2. *References.* Pub. L. 107–16, the Economic Growth and Tax Relief Reconciliation Act of 2001 (115 Stat. 38); the Internal Revenue Code of 1986 (IRC), as amended, including the Federal Unemployment Tax Act (FUTA); and Unemployment Insurance Program Letters (UIPL) 17–95 (60 *Fed. Reg.* 15794, March 27, 1995) and 25–00 (65 Fed. Reg. 41729, July 6, 2000).

3. *Background.* On June 7, 2001, the President signed into law Pub. L. 107–16, the Economic Growth and Tax Relief Reconciliation Act of 2001. This enactment affects the UC program in two ways—

- The voluntary withholding rate on UC benefits has been reduced from 15 percent to 10 percent.
- The exclusion of employer-provided educational assistance from the FUTA definition of wages has been extended to graduate education and has been made permanent.

4. *Voluntary Withholding Rate.* Since January 1, 1997, states have been required to withhold federal income tax from payments of UC when the individual so elects. (See UIPL 17–95.) At that time, Section 3402(p)(2), IRC, provided that the amount of federal income tax withheld from UC ''shall be an amount equal to 15 percent of such payment.'' The ''15 percent'' withholding rate was changed to ''10 percent'' by section 101(c)(7) of Pub. L. 107–16. As a result, states are now required to withhold, if the individual so elects, ''an amount equal to'' 10 percent of the amount of a payment of UC. States may not, with respect to an individual who requests the withholding, withhold an amount greater or less than 10 percent.

Each state will need to determine whether its UC law needs to be amended to change the withholding rate for federal income taxes. If a state must amend its law, the Department recommends that the state use language designed to accommodate any future changes in the withholding rate. The Draft Language previously provided by the Department contained the following language—

The individual may elect to have Federal income tax deducted and withheld from the individual's payment of unemployment compensation at the amount specified in the Federal Internal Revenue Code. [Attachment II to UIPL 17–95.]

The change to a 10 percent withholding rate is effective with respect to payments made after 60 days after the date of enactment of Pub. L. 107–16. (section 101(d)(2) of Pub. L. 107–16.) Since the date of enactment was June 7, 2001, the amendment pertains to payments made on and after August 7, 2001. Therefore, for purposes of conformity and compliance with federal law, the withholding rate for all payments made on and after August 7, 2001, is 10 percent.

5. *Employer Provided Educational Assistance.* Section 3306(b)(13), FUTA, excludes from the definition of wages—

any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127 or 129.

Under section 127, IRC, employer-paid education expenses are excludable from the gross income and wages of an employee if provided under an educational assistance plan. Prior to the amendments made by Pub. L. 107–16, this exclusion did not apply to—

- Graduate courses beginning after June 30, 1996, and
- Undergraduate courses beginning after December 31, 2001.

Section 411 of Pub. L. 107–16 extends the exclusion to graduate courses and makes the exclusion permanent for both undergraduate and graduate courses. The amendment is effective with respect to courses beginning after December 31, 2001. (Section 411(d) of Pub. L. 107–16.) States are not required to exclude these payments/benefits from their state law definition of wages.

6. *Action Required.* State Administrators should provide this information to appropriate staff. All states should immediately take steps to change the voluntary withholding rate.

7. *Inquiries.* Questions should be directed to the appropriate Regional Office.

[FR Doc. 01–19116 Filed 7–31–01; 8:45 am]
**BILLING CODE 4510–30–P**

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### Records Schedules; Availability and Request for Comments

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Notice of availability of proposed records schedules; request for comments.

**SUMMARY:** The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

**DATES:** Requests for copies must be received in writing on or before September 17, 2001. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

**ADDRESSES:** To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to records.mgt@nara.gov. Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

**FOR FURTHER INFORMATION CONTACT:** Michael Miller, Director, Modern Records Programs (NWM), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301) 713–7110. E-mail: records.mgt@nara.gov.

**SUPPLEMENTARY INFORMATION:** Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

### Schedules Pending

1. Department of the Air Force, U.S. Air Force Base Commands (N1–342–98–1, 2 items, 2 temporary items). Construction and engineer project control records that were retired to the Washington National Records Center from the late 1960s through the mid 1990s. Records relate to construction, maintenance, and repair projects on military bases. Included are records on cleaning, painting, wiring, roofing, paving, housing, guard stations, lighting, air plane hangers, recreation centers, and communication facilities. Records will be retained for 50 years.

2. Department of Energy, Assistant Secretary for Fossil Energy (N1–434–01–5, 3 items, 2 temporary items). Electronic copies of documents created using electronic mail and word processing that relate to the transfer to private ownership of the Naval Petroleum Reserve #1 at Elk Hills, California. Recordkeeping copies of these files are proposed for permanent retention.

3. Department of Health and Human Services, National Institutes of Health (N1–443–01–1, 7 items, 7 temporary items). Records relating to technology transfer agreements executed by the agency. Included are agreements, related requests and other background papers, post execution correspondence, and electronic copies of records created using electronic mail and word processing.

4. Department of Housing and Urban Development, Office of Federal Housing Enterprise Oversight (N1–543–01–3, 2 items, 1 temporary item). Electronic copies of documents created using electronic mail and word processing relating to the Government Performance and Results Act. Recordkeeping copies of such records as strategic plans, annual performance plans, annual performance reports, and quarterly performance reports are proposed for permanent retention.

5. Department of the Interior, Office of the Secretary (N1–48–01–2, 7 items, 1 temporary item). Photographs lacking historical value, such as portraits of lower level officials and coverage of such activities as blood drives, awards ceremonies, and savings bond campaigns. Proposed for permanent retention are historically significant black-and-white and color negatives, contact sheets, prints, and slides and related textual and automated photographic assignment logs.

6. Department of Justice, Immigration and Naturalization Service (N1–85–01–1, 4 items, 1 temporary item). Electronic copies of records created using electronic mail and word processing that relate to agency mission and policies. Recordkeeping copies of these files and related indexes are proposed for permanent retention.

7. Department of Justice, Bureau of Prisons (N1–129–01–12, 7 items, 7 temporary items). Records of accumulated by Federal correctional facilities including inmate transfer receipts, master index cards, and monthly reports to the Federal Bureau of Investigation concerning the release of inmates who had been convicted of bank robbery. Also included are electronic copies of documents created using electronic mail and word processing.

8. Department of State, Bureau of Administration (N1–59–01–16, 2 items, 2 temporary items). Records of the Office of Overseas Schools relating to schools in specific geographic areas and related matters. Included are correspondence, reports, publications, and electronic copies of documents created using electronic mail and word processing. This schedule reduces the retention period for recordkeeping copies of these files which were previously approved for disposal.

9. Department of the Treasury, Bureau of the Public Debt (N1–53–01–7, 45 items, 45 temporary items). Division of Special Investment records pertaining primarily to the purchase and redemption of special purpose securities. Included is a database used to maintain information on the purchase of special purpose securities and the related inputs and outputs.

10. Federal Energy Regulatory Commission, Office of External Affairs (N1–138–00–7, 12 items, 5 temporary items). Records relating to public relations. Included are such records as publications background materials, correspondence with Members of Congress, and electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of publications, employee newsletters, news releases, and photographs and video recordings relating to the agency's mission.

11. Library of Congress, Office of the Inspector General (N1–297–01–1, 6 items, 6 temporary). Audit case files, closed investigative files, allegation files, working papers pertaining to audits and investigations, and electronic and hard copy logs used to track the status of cases. Also included are electronic copies of records created using electronic mail and word processing.

12. National Archives and Records Administration, Office of Records Services—Washington, DC (N2–134–01–1, 1 item, 1 temporary item). Records of the Interstate Commerce Commission accumulated between 1910 and 1934 that pertain to investigations of new or joint common carrier rates, fares, charges, or classifications. These records were accessioned into the National Archives of the United States prior to the approval of a schedule submitted by the Commission which authorizes the destruction of this record series.

Dated: July 26, 2001.

**Michael J. Kurtz,**

*Assistant Archivist for Record Services—Washington, DC.*

[FR Doc. 01–19209 Filed 7–31–01; 8:45 am]

**BILLING CODE 7515–01–P**

## NUCLEAR REGULATORY COMMISSION

### Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

**AGENCY:** U.S. Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of the OMB review of information collection and solicitation of public comment.

**SUMMARY:** The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection: 10 CFR part 34—Licenses for Radiography and Radiation Safety Requirements for Radiographic Operations.

3. The form number if applicable: Not applicable.

4. How often the collection is required: Applications for new licenses and amendments may be submitted at any time. Applications for renewal are submitted every 10 years. Reports are submitted as events occur.

5. Who is required or asked to report: Applicants for and holders of specific licenses authorizing the use of licensed radioactive material for radiography.

6. An estimate of the number of responses: 546 (156 NRC licensee responses and 390 Agreement State licensee responses).

7. The estimated number of annual respondents: 364 (104 NRC licensees and 260 Agreement State licensees).

8. The number of hours needed annually to complete the requirement or request: 139,644 hours. The NRC licensees total burden is 39,990 hours (87 reporting hrs plus 39,903 recordkeeping hrs). The Agreement State licensees total burden is 99,654 hours (218 reporting hrs plus 99,436 recordkeeping hrs). The average burden per response for both NRC licensees and Agreement State licensees is 256 hours.

9. An indication of whether section 3507(d), Pub. L. 104–13 applies: Not applicable.

10. Abstract: 10 CFR part 34 establishes radiation safety requirements for the use of radioactive material in industrial radiography. The information in the applications, reports and records is used by the NRC staff to ensure that the health and safety of the public is protected and that licensee possession and use of source and byproduct material is in compliance with license and regulatory requirements.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide web site: *http://www.nrc.gov/NRC/PUBLIC/OMB/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by August 31, 2001. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Bryon Allen, Office of Information and Regulatory Affairs (3150–0007), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 26th day of July 2001.

For the Nuclear Regulatory Commission.

**Brenda Jo. Shelton,**

*NRC Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 01–19178 Filed 7–31–01; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

### Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

**AGENCY:** U.S. Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of the OMB review of information collection and solicitation of public comment.

**SUMMARY:** The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision, or extension: Extension.

2. The title of the information collection:

NRC Form 327, ''Special Nuclear Material (SNM) and Source Material (SM) Physical Inventory Summary Report''.

NUREG/BR–0096, ''Instructions and Guidance for Completing Physical Inventory Summary Reports''.

3. The form number if applicable: Not applicable.

4. How often the collection is required: The frequency of reporting corresponds to the frequency of required inventories, which depends essentially on the strategic significance of the SNM covered by the particular license. Certain licensees possessing strategic SNM are required to report inventories every 2 months. Licensees possessing SNM of moderate strategic significance must report every 6 months. Licensees possessing SNM of low strategic significance must report annually.

5. Who will be required or asked to report: Fuel facility licensees possessing special nuclear material.

6. An estimate of the number of responses: 23.

7. The estimated number of annual respondents: 10.

8. An estimate of the total number of hours needed annually to complete the requirement or request: 98 hours (an average of approximately 4.25 hours per response for 23 responses).

9. An indication of whether section 3507(d), Pub. L. 104–13 applies: Not applicable.

10. Abstract: NRC Form 327 is submitted by fuel facility licensees to account for special nuclear material. The data is used by NRC to assess licensee material control and accounting programs and to confirm the absence of (or detect the occurrence of) special nuclear material theft or diversion. NUREG/BR–0096 provides specific guidance and instructions for completing the form in accordance with the requirements appropriate for a particular licensee.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide web site: *http://www.nrc.gov/NRC/PUBLIC/OMB/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by August 31, 2001. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Bryon Allen, Office of Information and Regulatory Affairs (3150–0139), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 26th day of July, 2001.

For the Nuclear Regulatory Commission.

**Brenda Jo. Shelton,**

*NRC Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 01–19179 Filed 7–31–01; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

### Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

**AGENCY:** U. S. Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of the OMB review of information collection and solicitation of public comment.

**SUMMARY:** The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR Part 39—Licenses and Radiation Safety Requirements for Well Logging.

3. *The form number if applicable:* Not applicable.

4. *How often the collection is required:* Applications for new licenses and amendments may be submitted at any time. Applications for renewal are submitted every 10 years. Reports are submitted as events occur.

5. *Who will be required or asked to report:* Applicants for and holders of specific licenses authorizing the use of licensed radioactive material for radiography.

6. *An estimate of the number of responses:* 1,408 (402 NRC licensee responses and 1,006 Agreement State licensee responses).

7. *The estimated number of annual respondents:* 126 (36 NRC licensees and 90 Agreement State licensees).

8. The number of hours needed annually to complete the requirement or request: 27,352 hours. The NRC licensees total burden is 7,815 hours (113 reporting hrs plus 7,702 recordkeeping hrs). The Agreement State licensees total burden is 19,537 hours (282 reporting hrs plus 19,255 recordkeeping hrs). The average burden per response for both NRC licensees and Agreement State licensees is 21 hours.

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. *Abstract:* 10 CFR Part 39 establishes radiation safety requirements for the use of radioactive material in well logging operations. The information in the applications, reports, and records is used by the NRC staff to ensure that the health and safety of the public is protected and that licensee possession and use of source and byproduct material is in compliance with license and regulatory requirements.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide web site: http://www.nrc.gov/NRC/PUBLIC/OMB/index.html. The document will be available on the NRC home page site for

60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by August 31, 2001. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. Bryon Allen, Office of Information and Regulatory Affairs (3150–0130), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 26th day of July 2001.

For the Nuclear Regulatory Commission.

**Brenda Jo. Shelton,**

*NRC Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 01–19180 Filed 7–31–01; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–186]**

## University of Missouri-Columbia, University of Missouri-Columbia Research Reactor; Request for Public Comment, Environmental Assessment and Finding of No Significant Impact

Notice is hereby given that the U. S. Nuclear Regulatory Commission (NRC) is seeking public comment on the attached Environmental Assessment and Finding of No Significant Impact (EA), regarding a license amendment request to change the expiration date of the reactor facility license from November 21, 2001, to October 11, 2006, to recapture the period of construction for the University of Missouri-Columbia Research Reactor (MURR) located in Columbia, Missouri. The NRC has elected to provide the EA to the public for a 30-day comment period in response to a request from the State of Missouri Department of Natural Resources.

Any interested party may submit comments on the EA for consideration by the NRC staff. To be certain of consideration, comments on the EA must be received within 30 days of the date of this **Federal Register** notice. Comments received after the due date will be considered if it is practical to do so, but the NRC staff is able to assure consideration only for comments received on or before this date. Written comments on the EA should be sent to: Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, MS T6–D59, U. S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For further information contact: Mr. Alexander Adams Jr., Operational Experience and Non-Power Reactors Branch, Division of Regulatory Improvement Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Mr. Adams may be contacted by telephone at (301) 415–1127 or at the e-mail address *axa@nrc.gov.*

Comments may be hand-delivered to the NRC at 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. All comments received by the NRC will be accessible electronically through NRC's Public Electronic Reading Room (PERR) link listed below, and can be examined, or copied for a fee, at the NRC's Public Document Room (PDR) in Rockville, Maryland.

The NRC's Public Electronic Reading Room (PERR) is found on the Internet at the following web address: http://www.nrc.gov/NRC/ADAMS/index.html. From this site, the public can gain access to the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. Documents concerning the MURR, including comments received on the EA, can be found under docket number 05000186. Persons who do not have access to ADAMS or who have problems in accessing the documents located in ADAMS may contact the PDR reference staff at 1–800–397–4209, 301–415–4737 or by email at pdr@nrc.gov. Documents can also be examined, or copied for a fee, at the NRC's Public Document Room found at One White Flint North, 11555 Rockville Pike (first floor), Rockville, MD.

Dated at Rockville, Maryland, this 26th day of July 2001.

For the Nuclear Regulatory Commission.

**Ledyard B. Marsh,**

*Chief, Operational Experience and Non-Power Reactors Branch, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.*

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Amended Facility License No. R–103, issued to the University of Missouri-Columbia (the licensee), for operation of the University of Missouri-Columbia Research Reactor (MURR), located in Columbia, Missouri.

### Environmental Assessment

*Identification of the Proposed Action*

The proposed action would revise Amended Facility License No. R–103 to change the license expiration date from November 21, 2001, to October 11, 2006, to recapture the construction time between the issuance date of Construction Permit No. CPRR–68 (November 21, 1961) and issuance of Facility Operating License No. R–103 (October 11, 1966) to allow a 40-year operating license term.

The proposed action is in accordance with the licensee's application for amendment dated December 27, 2000, as supplemented by letters dated April 12 and June 6, 2001.

*The Need for the Proposed Action*

The proposed action is needed to recapture the time spent under the construction permit to allow operation of the MURR reactor for a term of 40 years from the date of issuance of the facility license.

*Environmental Impacts of the Proposed Action*

The MURR is located on a 7.5-acre lot in University Research Park, about one mile (1.6 km) southwest of the University of Missouri main campus in Columbia, Missouri. MURR is a pressurized, reflected, light-water moderated and cooled heterogeneous design reactor. The reactor is fueled with high-enriched, aluminum-clad, plate type fuel. The reactor has a maximum steady-state power level of 10 Megawatts thermal [MW(t)] with the reactor core located in a pressure vessel. The reactor pressure vessel is located in a cylindrically shaped pool and is covered by about 23 feet (7 m) of water during operation for radiation shielding. The reactor pool is surrounded by a biological shield. The reactor is located within a containment building.

The construction permit for the facility (CPRR–68) was issued to the University of Missouri on November 21, 1961. On October 11, 1966, Facility Operating License No. R–103 was issued to the University with a maximum power level of 5 MW(t). On July 9, 1974, Amendment No. 2 to the license was issued increasing the maximum operating power level to 10 MW(t). The facility normally operates on a 24-hour-a-day schedule with a shutdown once a week for refueling and maintenance.

The NRC has completed its evaluation of the proposed action and concludes that the proposed amendment to change the expiration date of the facility license to recapture time between construction and operation to allow for a 40-year operating license term will not result in a significant increase in environmental impacts. The licensee has not requested any changes to the facility design or operating conditions as part of this amendment request. Data from the last ten years of operation was assessed to determine the radiological impact of the facility on the environment.

Environmental surveys are performed by measuring the exposure to 41 thermoluminescent dosimeters (TLDs)

placed on and off site at various distances and directions from the facility. The results of this monitoring for all TLDs averaged by year from 1991 to 2000, and the TLD with maximum exposure (both do not include TLDs affected by shipping operations) is as follows:

| Year | Average (mrem/yr) | Maximum (mrem/yr) |
|---|---|---|
| 2000 | −1.3 | 18.6 |
| 1999 | 13.5 | 43.5 |
| 1998 | 3.4 | 51.9 |
| 1997 | 9.2 | 34.8 |
| 1996 | 9.2 | 34.9 |
| 1995 | 14.6 | 44.2 |
| 1994 | 20.5 | 49.7 |
| 1993 | 18.1 | 28.2 |
| 1992 | 6.3 | 26.7 |
| 1991 | 4.4 | 27.3 |

In addition, the licensee has calculated the dose to the individual member of the public likely to receive the highest dose from air emission of radioactive material to the environment to demonstrate compliance with 10 CFR 20.1101(d). This regulation provides as low as is reasonably achievable criteria for air emissions which must result in an individual member of the public receiving a total effective dose equivalent (TEDE) of less than 10 mrem per year. The results of calculations for the years 1991–2000, is as follows:

| Year | Dose (mrem/yr) |
|---|---|
| 2000 | 0.8 |
| 1999 | 0.9 |
| 1998 | 0.9 |
| 1997 | 0.7 |
| 1996 | 0.6 |
| 1995 | 0.7 |
| 1994 | 0.5 |
| 1993 | 0.6 |
| 1992 | 0.4 |
| 1991 | 0.4 |

These doses are within the constraint on air emissions of 10 mrem per year total effective dose equivalent in 10 CFR 20.1101(d).

The radioactive material released from the facility in airborne effluents is given as follows:

| Year | Curies released (Argon-41) | Curies released (Total) |
|---|---|---|
| 2000 | 975 | 982 |
| 1999 | 1130 | 1137 |
| 1998 | 1130 | 1134 |
| 1997 | 861 | 870 |
| 1996 | 728 | 739 |
| 1995 | 878 | 888 |
| 1994 | 370 | 385 |
| 1993 | 409 | 425 |
| 1992 | 470 | 475 |
| 1991 | 440 | 441 |

Airborne effluent releases from the facility consist primarily of argon-41. The releases from the facility met the average concentration requirements of the facility technical specifications. The increase in the amount of radioactive effluents reported released between 1994 and 1995 was the result of a change in the method used by the licensee to sample the effluent. Prior to 1995, the results were based on the analysis of a daily grab sample. From 1995, the activity released was based on calculations performed on data recorded from the gas channel of the exhaust stack radioactivity monitor which is in operation 24 hours a day. Analysis of continuous data provided better accuracy than the grab sample method that only measured the radioactive material concentration in the airborne effluent once per day at the time the sample was taken.

Liquid effluent releases to the sanitary sewer were as follows:

| Year | Curies released (Hydrogen-3) | Curies released (Total) |
|---|---|---|
| 2000 | 0.1199 | 0.1420 |
| 1999 | 0.1670 | 0.1740 |
| 1998 | 0.5901 | 0.5980 |
| 1997 | 0.1460 | 0.1510 |
| 1996 | 0.1487 | 0.1560 |
| 1995 | 0.0818 | 0.0900 |
| 1994 | 0.1089 | 0.1270 |
| 1993 | 0.2574 | 0.3160 |
| 1992 | 0.1711 | 0.2150 |
| 1991 | 0.2094 | 0.2580 |

Liquid effluent releases from the facility to the sanitary sewer consisted primarily of hydrogen-3. The NRC inspection program confirmed that monthly concentrations met regulatory requirements found in Appendix B Table 3 of 10 CFR part 20 in accordance with 10 CFR 20.2003.

Shipments of radioactive waste offsite for disposal at approved sites were as follows:

| Year | Volume (cubic feet) | Activity (mCi) |
|---|---|---|
| 2000 | 1,207.5 | 249 |
| 1999 | 565.0 | 281 |
| 1998 | 910.0 | 53 |
| 1997 | 420.0 | 404 |
| 1996 | 337.5 | 1,409 |
| 1995 | 0.0 | 0 |
| 1994 | 460.0 | 1,228 |
| 1993 | 392.0 | 60,105 |
| 1992 | 679.0 | 1,924 |
| 1991 | 772.5 | 1,146 |

The NRC inspection program confirmed that waste shipments met the requirements of the regulations in 10 CFR part 20 for waste disposal.

Radiological releases from the facility and associated doses to the public are within regulatory limits or the facility technical specifications and do not have a significant impact on human health or the environment. Monitoring of radiation levels in the environment includes soil, vegetative, and water sampling and direct radiation readings. Results of the monitoring program are reported in the Reactor Operations Annual Report and indicate that the facility does not have a significant impact on human health or the environment. Releases of radioactive material from the facility to the environment for the proposed construction permit recapture period are estimated to continue at levels similar to those above, which are well within regulatory limits.

Occupational doses to MURR staff and users meet the regulatory requirements found in 10 CFR part 20, subpart C, and are as low as is reasonably achievable. No changes in reactor operation that would lead to an increase in occupational dose are expected as a result of the proposed action.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to impact historic properties. The facility uses and disposes of small quantities of chemicals [e.g., up to about 5 gallons (20 liters) per year of hydrochloric acid, nitric acid, aqua regia and isopropyl alcohol] in research laboratories. These chemicals are disposed of in compliance with Environmental Protection Agency (EPA) and Missouri Department of Natural Resources requirements by the University of Missouri Environmental Health and Safety Department. These chemical forms and quantities are consistent with small laboratory use at universities.

The quality of the secondary cooling water is maintained using two commercial biocides, a corrosion inhibitor, and sulfuric acid (for pH control). These chemicals are similar to those used in cooling towers for the air conditioning systems of large buildings

and enter the environment by evaporation from the tower to the air and by blowdown to the sanitary sewer. About 105 gallons (400 liters) of the two biocides, 700 gallons (2,650 liters) of corrosion inhibitor, and 4,000 gallons (15,150 liters) of sulfuric acid are used annually. The use of these chemicals is approved by EPA. These chemicals are stored in a manner that will contain the chemicals in the event of material storage container failure. The use and disposal of these chemicals will not have a significant impact on the environment. The proposed action will not result in significant increases in the use of these chemicals.

The facility uses approximately 38 million gallons of water annually. The water is supplied by university owned and maintained deep wells which provide water to the campus. Most of the water (28 million gallons) is used in the cooling tower with the majority of the water lost to the atmosphere as water vapor. Wastewater from the facility discharges to the City of Columbia sewer system and is treated at the Columbia Regional Wastewater Treatment Plant.

The Missouri Department of Conservation has determined that no Federal or State listed plants or animals are known to occur on the MURR site, but did identify two species in the vicinity of the project site. One species, the Topeka Shiner, is listed as endangered. MURR withdraws a minimal amount of groundwater for reactor operation, has no major refurbishment or construction activities planned, and will have no significant change in the types or amounts of effluents leaving the facility as a result of construction permit recapture. Therefore, the proposed action is not expected to affect aquatic and terrestrial biota. The staff concludes there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

*Alternatives to the Proposed*

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the proposed action would result in expiration of the current license in November 2001, and the commencement of decommissioning if an application for license renewal is not made. If the application is denied, it is expected that the licensee would apply for renewal of the license. With operation under the proposed action or with a renewed license approved by the Commission, the environmental impacts of the proposed action and the alternative are similar. If the Commission denied the application for license renewal, facility operations would end and decommissioning would be required with a likely small impact on the environment. In addition, the benefits of education and research conducted by the facility would be lost. The environmental impacts of the proposed action and this alternative action are similar.

*Alternative Use of Resources*

This action does not involve the use of any resources not previously considered in the Hazards Analysis Report prepared for initial licensing of the facility and the power upgrade to 10 MW(t).

*Agencies and Persons Consulted*

In accordance with its stated policy, on [insert date] the staff consulted with the Missouri State official, Mr. Ron Kucera, Director of Intergovernmental Cooperation and Special Projects of the Missouri Department of Natural Resources, regarding the environmental impact of the proposed action. The State official _____. In addition, the NRC elected to provide the Environmental Assessment and Finding of No Significant Impact to the public for a 30-day comment period in response to a request from the State of Missouri Department of Natural Resources. Comments received related to this Environmental Assessment were _____.

**Finding of No Significant Impact**

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 27, 2000, as supplemented by letter dated April 12 and June 6, 2001, which are available for public inspection, and can be copied for a fee, at the U.S. Nuclear Regulatory Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the internet at *http://www.nrc.gov/NRC/ADAMS/index.html.* Persons who do not have access to ADAMS or who have problems in accessing the documents located in ADAMS may contact the PDR reference staff at 1–800–397–4209, 301–415–4737 or by email at pdr@nrc.gov.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

*Chief, Operational Experience and Non-Power Reactors Branch, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.*

[FR Doc. 01–19177 Filed 7–31–01; 8:45 am]

BILLING CODE 7590–01–P]

## OVERSEAS PRIVATE INVESTMENT CORPORATION

### Submission for OMB Review; Comment Request

**AGENCY:** Overseas Private Investment Corporation (OPIC).

**ACTION:** Request for comments.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), Agencies are required to publish a Notice in the **Federal Register** notifying the public that the Agency has prepared an information collection request for OMB review and approval and has requested public review and comment on the submission. OPIC published its first Federal Register Notice on this information collection request on April 25, 2001, in 66 FR 20841, at which time a 60-calendar day comment period was announced. This comment period ended June 25, 2001. No comments were received in response to this Notice.

This information collection submission has now been submitted to OMB for review. Comments are again being solicited on the need for the information, its practical utility, the accuracy of the Agency's burden estimate, and on ways to minimize the reporting burden, including automated collection techniques and uses of other forms of technology. The proposed form under review is summarized below.

**DATES:** Comments must be received on or before August 31, 2001.

**ADDRESSES:** Copies of the subject form and the request for review submitted to OMB may be obtained from the Agency

Submitting Officer. Comments on the form should be submitted to the OMB Reviewer.

**FOR FURTHER INFORMATION CONTACT:**

*OPIC AGENCY SUBMITTING OFFICER:* Carol Brock, Records Manager, Overseas Private Investment Corporation, 1100 New York Avenue, NW., Washington, DC 20527; 202/336–8563.

*OMB Reviewer*

David Rostker, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503, 202/395–3897.

**Summary of Form Under Review**

*Type of Request:* Form Renewal.

*Title:* Project Information Report.

*Form Number:* OPIC 71.

*Frequency of Use:* No more than once per contract.

*Type of Respondents:* Business or other institutions (except farms).

*Standard Industrial Classification Codes:* All.

*Description of Affected Public:* U.S. companies investing overseas.

*Reporting Hours:* 7 hours per project.

*Number of Responses:* 25 per year.

*Federal Cost:* $1,600.00.

*Authority for Information Collection:* Title 22 U.S.C. 2191(k)(2) and 2199(h) of the Foreign Assistance Act of 1961, as amended.

*Abstract (Needs and Uses):* The project information report is necessary to elicit and record the information on the developmental, environmental, and U.S. economic effects of OPIC-assisted projects. The information will be used by OPIC's staff and management solely as a basis for monitoring these projects, and reporting the results in aggregate form, as required by Congress.

Dated: July 26, 2001.

**Rumu Sarkar,**

*Assistant General Counsel, Administrative Affairs, Department of Legal Affairs.*

[FR Doc. 01–19202 Filed 7–31–01; 8:45 am]

**BILLING CODE 3210–01–M**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–44589; File No. SR–Amex–2001–36]**

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Relating to Hearing Fees for Issuer Requests for Review of Initial Listing and Delisting Decisions

July 26, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on June 1, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend sections 1010(c), 1203(a), and 1204(c) of the Amex Company Guide to impose hearing fees on issuers in connection with issuer requests for review of Exchange initial listing or delisting decisions.

Below is the text of the proposed rule change. Proposed new language is *italicized.*

* * * * *

**Amex Company Guide**

Section 1010. Delisting Procedures

(a) No change

(b) No change

(c) If, within five days after receiving such written notice, the company informs the Exchange in writing that it wishes to appeal the decision of the Exchange and requests an opportunity for a hearing, the Exchange will give the company at least ten days' prior written notice of the time and place at which a hearing shall be held. *A company requesting an opportunity for a hearing must submit a hearing fee of $2,500 to the American Stock Exchange LLC in the form and manner prescribed by the Exchange to cover the cost of the hearing. A company will be deemed to have waived the opportunity for a hearing, and a hearing will not be scheduled, if the hearing fee has not been submitted to the Exchange within five days after the company receives the written notice referred to in section 1010(b) above.*

(d) through (h) No change.

Section 1203. Request for Hearing

(a) An applicant may, within seven calendar days of the date of the Staff Determination, request either a written or oral hearing to review the staff Determination. Requests for hearings should be filed with the Nasdaq–Amex Office of Listing Qualifications Hearings (the ''Hearings Department''). *An applicant must submit a hearing fee to the American Stock Exchange LLC, to cover the cost of holding the hearing, as follows: (1) where consideration is on the basis of a written submission from the issuer, $1,500, or (2) where consideration is on the basis of an oral hearing, whether in person or by telephone, $2,500. The applicant will be deemed to have waived the opportunity to request a hearing, and a hearing will not be scheduled, unless the applicant has submitted such hearing fee, in the form and manner prescribed by the Exchange, no later than seven calendar days of the date of the Staff Determination.*

All hearings will be held before a Subcommittee of the Committee on Securities as described in section 1204. All hearings will be scheduled, to the extent practicable, within 45 days of the date that the request for hearing is filed, at a location determined by the Hearings Department. The Hearings Department will make an acknowledgement of the applicant's hearing request stating the date, time, and location of the hearing, and the deadline for written submissions to the Committee on Securities. The applicant will be provided at least 10 calendar days notice of the hearing unless the applicant waives such notice.

(b) No change

Section 1204. The Committee on Securities

(a) No change

(b) No change

(c) After the Hearing, the Subcommittee will issue a written decision (the ''Subcommittee Decision'') describing the specific grounds for the determination and identifying the quantitative guideline or qualitative consideration set forth in Part 1 that the applicant has failed to satisfy. The Subcommittee Decisions will be promptly provided to the applicant and is effective immediately unless it specifies to the contrary. The Subcommittee Decision will provide notice that the applicant may request review of the Subcommittee Decision by the Adjudicatory Council within 15 calendar days of the date of the Subcommittee Decision and that the Subcommittee Decision may be called for review by the Adjudicatory Council within 45 calendar days from the date of the Subcommittee Decision pursuant to Section 1205. *If the applicant requests review of the Subcommittee Decision, the applicant must submit a fee of $2,500 to the American Stock Exchange LLC to cover the cost of the review by the Adjudicatory Council. The applicant will be deemed to have waived the opportunity for review, and a review will not be commenced, unless the applicant has submitted the fee, in the form and manner prescribed by the Exchange, within 15 calendar days of the date of the Subcommittee Decision.*

* * * * *

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Sections 1201 to 1211 of the Amex Company Guide set out procedures for reviewing determinations that prohibit or limit the initial listing of an applicant's securities on the Amex. section 1203(a) of the Amex Company Guide permits an applicant, within seven calendar days of the staff's determination not to list its securities, to request a written or oral hearing before a subcommittee of the Amex Committee on Securities (''Subcommittee'') to review the staff's determination. Section 1204(c) of the Amex Company Guide provides for an applicant's request for review by the Amex Adjudicatory Council of a decision by the Subcommittee.

Section 1010 of the Amex Company Guide sets out procedures that apply to Exchange decisions to delist a company's securities from listing for other than routine reasons (such as redemptions, maturities, etc.). Section 1010(c) of the Amex Company Guide provides that the company, within five days after receiving written notice from the Exchange of its decision to delist, can request an appeal of the Exchange's decision. A hearing on the matter would be held by the Committee on Securities, which forwards its recommendation to the Amex Adjudicatory Council for a final determination, as authorized by the Amex Board of Governors.

The Exchange does not currently impose a fee on companies requesting appeals of either initial listing or delisting decisions. The Exchange proposes to impose hearing fees on companies that request a hearing following such an Exchange decision to recoup expenses incurred by the Exchange in conducting such hearings. The Exchange, therefore, proposes to amend section 1203(a) of the Amex Company Guide to require a company to submit a hearing fee of $1,500 to the Exchange if the company is requesting a hearing before the Subcommittee based only on a written submission from the company, or $2,500 if the company requests an oral hearing before the Subcommittee. This fee would be required to be submitted in the form and manner prescribed by the Exchange no later than seven calendar days of the date of the Exchange staff's determination not to admit the company listing. Section 1204(c) of the Amex Company Guide also is proposed to be amended to provide that, if the company requests a review by the Adjudicatory Council of the Subcommittee's decision, the company must submit an additional fee of $2,500 to the Exchange, in the form and manner prescribed by the Exchange within 15 calendar days of the date of the Subcommittee's decision, to cover costs associated with conducting the review. The time frames applicable to the fee payments are the same as those applicable to requests for a hearing for review of the Subcommittee's decision. Sections 1203(a) and 1204(c) of the Amex Company Guide are proposed to be amended to provide that a company will be deemed to have waived the opportunity to request a hearing or the opportunity for review, respectively, and no such hearing or review will be scheduled or commenced, unless the applicable fee has been submitted within the specified time frames.

In connection with Exchange delisting decisions, section 1010(c) of the Amex Company Guide is proposed to be amended to require a company to submit a fee of $2,500 to the Exchange, in the form and manner prescribed by the Exchange, to cover the cost of the hearing before the Committee on Securities and Adjudicatory Council. The Exchange proposes that the fee be submitted within five days after receiving written notice of the Exchange's determination that the company's security should be removed from listing. This is the same as the time frame by which the company must submit a written request for an opportunity for a hearing. In addition, the Exchange proposes a company will be deemed to have waived the opportunity for a hearing under section 1010 of the Amex Company guide if the hearing fee has not been submitted to the Exchange within five days after the company receives written notice of delisting referred to in section 1010(b).

The Exchange believes that the proposed fees are fair and reasonable and will cover a portion of Exchange expenses,[3] including allocation of staff time, incurred by the Exchange Listing Qualifications Department and Office of General Counsel in processing hearing requests and in conducting such hearings before the Committee on Securities (or a Subcommittee thereof) and Adjudicatory Council.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act[4] in general, and furthers the objectives of section 6(b)(4) of the Act[5] in particular because it is intended to assure the equitable allocation of reasonable dues, fees, and other charges among members, issuers, and other persons.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of

[3] Amex describes the proposed fees as revenue neutral. Telephone discussion between Michael Cavalier, Associate General Counsel, Amex, and Frank N. Genco, Attorney Advisor, Division of Market Regulation, Commission (June 25, 2001).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–2001–36 and should be submitted by August 22, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01–19126 Filed 7–31–01; 8:45 am]

**BILLING CODE 8010–01–M**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–44588; File No. SR–NYSE–2001–11]**

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Amendment of Rule 342 (''Offices—Approval, Supervision and Control'')

July 25, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], and Rule 19b–4 [2] thereunder, notice is hereby given that on May 15, 2001, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission (''Commission''), the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments with respect to the meaning and administration of existing Exchange Rule 342.13(b) (''Acceptability of Supervisors''). Amendments to Rule 342.13(b) will rescind the requirement that Compliance Official candidates take the General Securities Sales Supervisor Qualification Examination (Series 9/10), as a prerequisite to the Compliance Official Qualification Examination (Series 14), if the member or member organization does business with the public. It is believed that this is a duplicative requirement since both the Compliance Official Qualification Examination (Series 14) and the General Securities Sales Supervisor Qualification Examination (Series 9/10) contain similar material.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B and C below of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to amend Rule 342.13(b) to rescind the requirement that Compliance Official candidates take the General Securities Sales Supervisor Qualification Examination (Series 9/10), if the member or member organization does business with the public. Compliance Official candidates will continue to be required to take and pass the Compliance Official Qualification Examination (Series 14).

*Background.* In 1989, the Compliance Official Qualification Examination (Series 14) was adopted [3] as a qualification requirement for Compliance Supervisors. Rule 342.13(b) was amended to require that ''each member not associated with a member organization and in the case of a member organization, the person (or persons) designated to direct day-to-day compliance activity (such as the Compliance Officer, Partner or Director) and each person at the member organization directly supervising ten or more persons engaged in compliance activity should have overall knowledge of the securities laws and Exchange rules and must pass the Compliance Official Qualification Examination.'' In addition, if the member or member organization does business with the public, the Compliance Official candidate must also first pass the General Securities Sales Supervisor Qualification Examination (Series 9/10). The Series 9/10 examination was formerly known as the Series 8 examination.

*Proposed Amendment of Rule 342.13(b).* Recently, the Exchange sought industry input and recommendations with respect to various qualifications and examination requirements. One recommendation that emerged from this process is to amend Rule 342.13(b) to rescind the prerequisite that Compliance Official candidates from members or member organizations doing a public business be required to take the General Securities Sales Supervisor Qualification Examination.

The Exchange believes that requiring the prerequisite is a duplicative requirement since both the Compliance Official Qualification Examination (Series 14) and the General Securities Sales Supervisor Qualification Examination (Series 9/10) contain substantially similar material (*e.g.,*) both exams cover sales practices, general supervision, credit regulation, capital requirements, trading practices and compliance responsibilities. The major difference is that the Series 9/10 contains more comprehensive coverage of options and municipal securities but these subjects are covered by other exams (*e.g.,*) Series 4—Registered Options Principal and Series 53—Municipal Securities Principal that would be required of personnel involved in supervising those activities.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of sections 6(b)(5) and 6(c)(3)(B) of the Act.[4] Section 6(b)(5) [5] requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to prescribe standards of training, experience and competence for persons associated with Exchange members and member organizations.

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 27019, July 11, 1989; 54 FR 30127 (July 18, 1989).

[4] 15 U.S.C. 78f(b)(5) and 15 U.S.C. 78f(c)(3)(B).

[5] 15 U.S.C. 78f(b)(5).

Under section 6(c)(3)(B) of the Act,[6] it is the Exchange's responsibility to prescribe standards of training, experience and competence for persons associated with Exchange members and member organizations.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes that the proposal does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

Written comments with respect to the proposed rule change were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–2001–11 and should be submitted by August 22, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01–19095 Filed 7–31–01; 8:45 am]

**BILLING CODE 8010–01–M**

[6] 15 U.S.C. 78f(c)(3)(B).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–44592; File No. SR–NYSE–00–17]**

## Self-Regulatory Organizations; New York Stock Exchange; Order Granting Approval of a Proposed Rule Change Relating to the Physical Format Requirements for Securities Certificates

July 26, 2001.

**I. Introduction**

On May 1, 2000, the New York Stock Exchange (''NYSE'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–NYSE–00–17 pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and on July 24, 2000, amended the proposed rule change. Notice of the proposal was published in the Federal Register on September 1, 2000.[2] The Commission received thirty-four comment letters in response to the proposed rule change.[3] The Commission is publishing this order to grant approval of the proposed rule change.[4]

**II. Description**

In the past, the NYSE has set forth in its Listed Company Manual specific printing and engraving criteria for the production of certificates of listed issuers. These requirements were in large part to guard against the counterfeiting of certificates. However, in light of the continued move toward dematerialization and immobilization and the evolving technologies to support the movement of securities, the NYSE has reviewed its current certificate requirements. The NYSE notes that no comparable requirements exist in the NASDAQ rules. The NYSE also notes that the Commission has recently approved an American Stock Exchange (''Amex'') rule filing that allowed the Amex to eliminate its certificate requirements.[5] Furthermore, public companies not listed on any exchange often use certificates that do not comply with the traditional NYSE criteria, which results in additional compliance expense if those companies seek an NYSE listing. In light of all the

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Release No. 43207 (August 25, 2000), 65 FR 53248.

[3] Letter to Jonathan G. Katz, Secretary, SEC. from Thomas C. Harris, Deputy Director, Department of the Treasury, Bureau of Engraving and Printing (September 20, 2000)(''Treasury''); Thomas L. Montrone, President and Chief Excutive Officer, Registrar and Transfer Company (September 20, 2000)(''Registrar and Transfer''; Ira Horowirtz, President, American Bank Note Company, (September 22, 2000)('' American Bank Note I''); Memorandum to File, (September 22, 2000)(''Memo to File I'') Steven G. Nelson, Chairman of the Board, Continental Stock Transfer and Trust Company, (September 28, 2000)(''Contintental'') Stewart S. Hudnut, Senior Vice President, Illinois Tool Works, Inc. (September 28, 2000)(''Illinois Tool''); Susan S. Keith, Vice President, Halliburton Company (September 29, 2000)(''Halliburton''); John J. Burns, Jr., President, Alleghany Corporation (September 29, 2000)(''Alleghany''); Robert W. Beicke, Vice President, ITT Industries (October 2, 2000)(''ITT''); Robert W. Diaczuk, Vice President, PFPC Inc. (October 2, 2000)(''PFPC''); Steven L. Welter, Manager, Ashland Inc. (October 3, 2000)(''Ashland''); Ronald L. Greene, Customer Service Manager, Banknote Corporation of America (October 3, 2000)(''Banknote Corp. I''); Kevin B. Marsh, Senior Vice President, SCANA Corporation, (October 3, 2000)(''SCANA''); Tommy Chisholm, Vice President, Southern Company (October 3, 2000)(''Southern Co.''); Richard E. Lane, Chairman/CEO, PlazaBank (October 3, 2000)(''PlazaBank''); Jerome Clair, Vice President, Citibank, N.A. (October 4, 2000)(''Citibank''); John M. Turner, Vice President, First Union (October 4, 2000)(''First Union''); Darryl W. Colletti, Vice President, Merrill Lynch (October 4, 2000)(''Merrill Lynch''); Nicholas J. Camera, Senior Vice President, The Interpublic Group of Companies, Inc. (October 5, 2000)(''Interpublic''); Charles V. Rossi, Division President, EquiServe (October 5, 2000)(''EquiServe''); Karen L. Strum, Assistant Secretary, Nabisco (October 5, 2000)(''Nabisco''); David B. Phillips, Assistant Corporate Secretary, Cigna (October 10, 2000)(''Cigna''); Elizabeth A. Overmyer, Corporate Secretary, Ball Corporation (October 13, 2000)(''Ball Corp.''); Darlene Cornell, Analyst, Peoples Energy (October 17, 2000)(''Peoples Energy''); Thomas A. McNish, Vice President, CMS Energy (November 3, 2000)(''CMS'') Ronald L. Greene, Customer Service Manager, Banknote Corporation of America, Inc. (November 10, 2000)(''Banknote II''); Gary S. Tuttle, Individual (November 22, 2000)(''Tuttle''); Gregory P. Vitt, Vice President, A.G. Edwards & Sons, Inc. (November 30, 2000)(''A.G. Edwards''); Ronald L. Greene, Customer Service Manager, Banknote Corporation of America, Inc. (December 20, 2000)(''Banknote III''); David W. Smith, President, American Society of Corporate Secretaries (February 8, 2001)(''ASCS''); Memorandum to File, February 28, 2001)(''Memo to File II''); James E. Buck, Senior Vice President, NYSE (March 2, 2001)(''NYSE''); Ira Horowitz, President, American Bank Note Company (March 16, 2001)(American Bank Note II''); and to Mr. Stephen G. Walsh, Managing Director, Listings, Operations and Market Watch, New York Stock Exchange, from Donald F. Gress, Chairman, STA Operations Committee (May 11, 2001)(''STA Operations Committee''); Copies and a summary of these letters may be viewed in the Commission's Public Reference Room.

[4] The text of the rule change is set forth in Exhibit A to the amended proposed rule change filing, which may be obtained by contacting the NYSE or through the Commission's Public Reference Room.

[5] Securities Exchange Act Release No. 42539 (March 17, 2000), 65 FR 15672.

foregoing, the rule change will eliminate the NYSE's Listed Company Manual's requirements pertaining to printing and appearance and will retain only the requirements that specify the content required on each certificate (*e.g.* company name, par value if required by law, and proper form of assignment.[6]

### III. Summary of Comments

The Commission received thirty-four comment letters in response to the proposed rule change.[7] Of the thirty-four commenters, twenty-eight were not in support of the proposed rule change.[8]

Seventeen of the twenty-eight letters in opposition to the proposed rule change expressed essentially the same concerns.[9] Of those seventeen, NYSE-listed companies submitted fifteen, a transfer agent submitted one, and a bank submitted one. The essence of these letters was that the proposed rule change would ''increase the potential for alteration and/or duplication'' of physical securities certificates. In its letter, the department of the Treasury stated that the elimination of the requirement of intaglio printing on certificates, with its unique ''tactile effect and 'three dimensional' appearance,'' would make certificates easier to counterfeit. Four transfer agents, a committee of the Stock Transfer Association, one individual, and one bank note company (with two submitted letters and one meeting with Commission staff) also set forth as their main concern the elimination of the requirement for engraved intaglio printing.[10] One comment letter stated that it generally opposed elimination of any of the NYSE's certificate standards until such time as all certificates are dematerialized.[11]

In rebuttal, the NYSE argued, as did ASCS, that since the Amex has no certificate requirements, the NYSE should be allowed to eliminate its requirements as well and that most public companies will continue to use engraved certificates with intaglio printing anyway.[12] The NYSE also argues that the security features pertaining to physical certificates that it retained in its Listed Company Manual are sufficient to adequately protect against counterfeiting.[13]

### IV. Discussion

Section 6(b)(5)[14] of the Act requires that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices. For the reasons set forth below, the Commission finds that NYSE's proposed rule change is consistent with NYSE's obligation under section 6(b)(5) of the Act.

The Commission carefully considered the concerns expressed by the letters not in support of the proposed rule change. Although the proposed rule change removes some specific printing and engraving requirements for the securities certificates of NYSE-listed companies, the Commission finds that the remaining NYSE certificate requirements should provide adequate protections against counterfeiting. Although the NYSE certificate requirements no longer mandate the use of intaglio printing or the inclusion of a vignette on the certificate's face, the Commission believes that other remaining requirements in the NYSE's Listed Company Manual (such as the use of penetrating ink, the use of matrix printing or maceration technique, the use of a standard size certificate, the use of either a bank note control number or a computer-generated serial account number and the inclusion of facsimile signatures of officers with their titles, the name of the transfer agent or registrar, the serial number of the certificate, the Cusip number and box, and the word ''Dated'' in the lower portion of the certificate) serve to adequately guard against counterfeiting and other fraudulent and manipulative acts and practices.

While the Commission recognizes that the use of Intaglio printing can be a valuable safeguard against counterfeiting, the Commission does not believe that it is an exclusive one. The Commission also notes that there is nothing in the NYSE's Listed Company Manual that either requires a company to change its certificates in response to this rule change or prohibits a company from incorporating more security features, such as intaglio printing, into its certificates than NYSE rules require.

### V. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of section 6(b)(5) of the Act and the rules and regulations thereunder.

*It is Therefore Ordered,* pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NYSE–00–17) be and hereby is approved.

For the Commission by the Division of Market Regulation,pursuant to delegated authority.[15]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01–19125 Filed 7–31–01; 8:45 am]

**BILLING CODE 8010–01–M**

[6] As originally filed, the NYSE proposed eliminating all its requirements for certificates. The NYSE subsequently amended its original filing to reflect concerns that Commission staff and industry entities such as DTC had raised in discussions with the NYSE (July 24, 2000), amendment). Specifically, the NYSE added new language to section 510 and added a new section 501.13, both of which incorporated certain provisions of the now eliminated section 502 of the Listed Company Manual. The retained provisions contain the requirements relating to the contents required on certificates.

[7] *Supra* note 3.

[8] Treasury, Registrar and Transfer, American Bank Note I, Memo to File I, Continental, Illinois Tool, Halliburton, Alleghany, ITT, PFPC, Ashland, SCANA, Southern Co., PlazaBank, Citibank, First Union, Merrill Lynch, Interpublic, Equiserve, Nabisco, Cigna, Ball Corp., Peoples Energy, CMS, Tuttle, A.G. Edwards, American Bank Note II, and STA Operations Committee letters.

[9] Illinois Tool, Halliburton, ITT, PFPC, Alleghany, Ashland, SCANA, Interpublic, Merrill Lynch, Nabisco, Southern Co., First Union, Cigna, PlazaBank, Peoples Energy, Ball Corp., and CMS letters.

[10] Register and Transfer, Continental, Citibank, Equiserve, Tuttle, American Bank Note I, Memo to File I, American Bank Note II, and STA Operations Committee letters.

[11] A.G. Edwards letter.

[12] ASCS and NYSE letters.

[13] NYSE letter.

[14] 15 U.S.C. 78f(b)(5).

[15] 17 CFR 200.30–3(a)(12).

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Economic Injury Disaster #9M19]**

### State of Florida

Okeechobee and Hendry Counties and the contiguous counties of Broward, Charlotte, Collier, Glades, Highlands, Indian River, Lee, Martin, Osceola, Palm Beach, Polk and St. Lucie in the State of Florida constitute an economic injury disaster loan area as a result of freezing temperatures beginning in November 2000 and continuing through January 2001. Eligible small businesses and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance as a result of this disaster until the close of business on April 22, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: July 20, 2001.

**John Whitmore,**

*Acting Administrator.*

[FR Doc. 01–19120 Filed 7–31–01; 8:45 am]

**BILLING CODE 8025–01–P**

## DEPARTMENT OF STATE

**[Public Notice 3732]**

## Bureau of Consular Affairs; Registration for the Diversity Immigrant (DV–2003) Visa Program

**ACTION:** Notice of registration for the Diversity Immigrant Visa Program.

This public notice provides information on how to apply for the DV 2000 Program. This notice is issued pursuant to 22 CFR 42.33(b)(2) which implements sections 201(a)(3), 201(e), 203(c) and 204(a)(1)(G) of the Immigration and Nationality Act, as amended, (8 U.S.C. 1151, 1153, and 1154(a)(1)(G)).

### Entry Procedures for Immigrant Visas To Be Made Available in the DV Category During Fiscal Year 2003

Entries for DV–2003 *must be received* at one of the Kentucky Consular Center Mailing Addresses Listed in this Notice *between noon on Monday, October 1, 2001 and noon on Wednesday, October 31, 2001.* Entries received before or after these dates will be disqualified regardless of when they are postmarked. Entries mailed to any address other than the Kentucky Consular Center addresses listed in this notice will be disqualified.

### How Are Visas Apportioned?

Visas are apportioned among six geographic regions with a greater number of visas going to regions with lower rates of immigration, and no visas going to countries sending more than 50,000 immigrants to the U.S. in the past five years. Within each of the six regions, no one country may receive more than seven percent of the available Diversity Visas in one year. By law, the U.S. Diversity Visa Program makes available a maximum of 55,000 each year. However, the Nicaraguan and Central American Relief Act (NACARA) stipulates that beginning as early as DV–99 and for as long as necessary, 5,000 of the 55,000 annually-allocated diversity visas will be made available for use under the NACARA Program. This reduction began in DV–2000 and remains in effect for DV–2003.

For DV–2003, natives of the following are NOT ELIGIBLE to apply because they sent more than 50,000 immigrants to the United States in the previous five years:

CANADA
CHINA (mainland-born)
COLOMBIA
DOMINICAN REPUBLIC
EL SALVADOR
HAITI
INDIA
JAMAICA
MEXICO
PAKISTAN
PHILIPPINES
SOUTH KOREA
UNITED KINGDOM (except Northern Ireland) and its dependent territories
VIETNAM
(Persons born in Hong Kong SAR, Macau SAR and Taiwan are eligible.)

### What Are the Requirements To Apply for the DV–2003 Visas?

*Chargeability*

To enter, an applicant must be able to claim nativity in an eligible country, AND must meet either the education or training requirement of the DV program. Nativity in most cases is determined by the applicant's place of birth. However, if a person was born in an ineligible country but his/her spouse was born in an eligible country, such person can claim the spouse's country of birth rather than his/her own. Also, if a person was born in an ineligible country, but neither of his/her parents was born there or resided there at the time of the birth, such person may be able to claim nativity in one of the parents' country of birth.

*Education or Training*

To enter, an applicant MUST have EITHER a high school education or its equivalent, defined in the U.S. as successful completion of a 12-year course of elementary and secondary education; OR two years of work experience within the past five years in an occupation requiring at least two years of training or experience to perform. U.S. Department of Labor definitions, as indicated in the O*Net OnLine database, will apply. If a person does not meet these requirements, he/she SHOULD NOT submit an entry to the DV program.

*Submitting an Entry*

Only ONE entry may be submitted by or for each applicant during the registration period. Submission of more than one entry will disqualify the person. The applicant must personally sign the entry, in his/her native alphabet. Failure of the applicant to personally sign his/her own entry will result in disqualification.

*Completing the Entry*

There is no specific form for the entry. *Failure to provide ALL of the information listed below will disqualify the applicant.* Simply use a plain sheet of paper and type or clearly print in the English (Roman) alphabet (preferably in the order listed below):

1. FULL NAME, with the last (surname/family) name underlined
   EXAMPLES: *Public,* Sara Jane (or) *Lopez,* Juan Antonio
2. DATE AND PLACE OF BIRTH
   Date: Day, Month, Year
   EXAMPLE: 15 November 1961
   Place: City/Town, District/County/Province, Country
   EXAMPLE: Munich, Bavaria, Germany

The name of the country should be that which is currently in use for the place where the applicant was born (For example, Slovenia, rather than Yugoslavia; Kazakstan rather than Soviet Union.)

3. The Applicant's Native Country if Different from Country of Birth

If the applicant is claiming nativity in a country other than his/her place of birth, this must be clearly indicated on the entry. This information must match with what is put on the upper left corner of the entry envelope. (See ''MAILING THE ENTRY'' below.) If an applicant is claiming nativity through spouse or parent, please indicate this on the entry. (See ''Requirements'' section for more information on this item.

4. NAME, DATE AND PLACE OF BIRTH OF THE APPLICANT'S SPOUSE AND CHILDREN, NATURAL CHILDREN, AS WELL AS ALL LEGALLY-ADOPTED CHILDREN AND STEPCHILDREN, WHO ARE UNMARRIED AND UNDER THE AGE OF 21 YEARS. LIST DEPENDENTS REGARDLESS OF WHETHER OR NOT THEY RESIDE WITH YOU AND/OR WHETHER OR NOT THEY WILL IMMIGRATE WITH YOU. (Failure to provide ALL of this information will disqualify the applicant.) Note: married children and children 21 years or older will not qualify for the DV Program.

5. FULL MAILING ADDRESS

This must be clear and complete, as any communications will be sent there. A telephone number is optional, but useful.

6. PHOTOGRAPHS. Attach a recent photograph, either black and white or in color, of the applicant, spouse and each child.

*If photos do not conform to the following specifications, the entry will be disqualified:*

The photo must be 2 inches (50 mm) square in size, with the name and date of birth printed on the back of the applicant's, spouse's or child's photo.

The person photographed must be directly facing the camera. The head should not be tilted up, down or to the

side and should cover about 50% of the area of the photo.

The person should be in front of a neutral, light-colored background.

The face must be in focus.

The person photographed may not where a hat or dark glasses.

The photograph (not a photocopy) should be attached to the entry with clear tape—DO NOT use staples or paperclips, which can jam the mail processing equipment.

7. SIGNATURE: *The entry will be disqualified* if the entry is not personally signed by the applicant with the usual and customary signature in his/her native alphabet. Neither an initialed signature nor block printing of the applicant's name will be accepted.

SAMPLE ENTRY

There is no specific format for the DV entry. The following is a sample entry, but other formats may be used. Failure to include all of the required information will disqualify the applicant.

1. FULL NAME:

_____

LAST (surname/family) FIRST

2. DATE OF BIRTH

_____

Day, Month, Year

PLACE OF BIRTH

_____

City/Town, District/County/Province, Country

3. APPLICANT'S NATIVE COUNTRY, IF DIFFERENT FROM COUNTRY OF BIRTH

_____

(See requirements above)

4. NAME, DATE AND PLACE OF BIRTH OF THE APPLICANT'S SPOUSE AND CHILDREN

_____

Name Date of birth (day, month, year) Place of birth

_____

Name Date of birth (day, month, year) Place of birth

_____

Name Date of birth (day, month, year) Place of birth

Attach information on additional children as necessary.

Use the back of the page if there is insufficient space.

5. FULL MAILING ADDRESS:

_____

_____

6. PHOTOGRAPH: Attach recent photograph of the applicant, the applicant's spouse and all children. Individual separate photographs must be attached for the spouse and all children. Print the name and date of birth of each family member on the back of each photograph. Photos may be attached to the back of the entry if there is not enough room on the front

7. SIGNATURE:

_____

Failure to personally sign the entry will disqualify the applicant.

*Mailing the Entry*

Submit the entry by regular or airmail to the address matching the region of the applicant's country of nativity. Entries sent by express or priority mail, second day airmail, fax, hand, messenger, or any means requiring receipts or special handling *will not be processed*.

- The envelope must be between 6 and 10 inches (15 to 25 cm) long and 3½ and 4½ inches (9 to 11 cm) wide.
- Postcards are NOT acceptable.
- Envelopes inside express or oversized mail packets are NOT acceptable.
- *In the upper left-hand corner* of the envelope the applicant must write his/her country of nativity, followed by the applicant's name and full return address, even if both are the same.

*Failure to provide this information will disqualify the entry.*

Mailing address: The mailing addresses for the six regions are as follows:

| | | |
|---|---|---|
| AFRICA | (includes all countries on the African continent and adjacent islands): | DV–2003 Program,<br>Kentucky Consular Center,<br>1001 Visa Crest,<br>Migrate, KY 41901–1000, USA. |
| ASIA | (extends from Israel to the northern Pacific islands, and includes Indonesia): | DV–2003 Program,<br>Kentucky Consular Center,<br>2002 Visa Crest,<br>Migrate, KY 41902–2000, USA. |
| EUROPE | (extends from Greenland to Russia, and includes all countries of the former USSR). | DV–2003 Program,<br>Kentucky Consular Center,<br>3003 Visa Crest,<br>Migrate, KY 41903–3000, USA. |
| SOUTH AMERICA/CENTRAL AMERICA/CARIBBEAN. | (extends from Central America (Guatemala) and the Caribbean nations to Chile). | DV–2003 Program,<br>Kentucky Consular Center,<br>4004 Visa Crest,<br>Migrate, KY 41904–4000, USA. |
| OCEANIA | (includes Australia, New Zealand, Papua New Guinea and all countries and islands of the South Pacific). | DV–2003 Program,<br>Kentucky Consular Center,<br>5005 Visa Crest,<br>Migrate, KY 41905–5000, USA. |
| NORTH AMERICA: | (includes the Bahamas) | DV–2003 Program,<br>Kentucky Consular Center,<br>6006 Visa Crest,<br>Migrate, KY 41906–6000, USA. |

***EXAMPLE:*** An applicant who was born in Australia and now lives in France may submit one entry to the appropriate address for Oceania; the envelope should look like this:

**6" - 10" or 15 cm - 25 cm**

**Australia**
**Applicant's Full Name**
**Street Address**
**City, Province, Postal Code**
**France**

**DV-2003 Program**
**Kentucky Consular Center**
**5005 Visa Crest**
**Migrate, KY 41905-5000, U.S.A.**

**3 1/2 - 4 1/2"**

**or**

**9 cm - 11 cm**

IMPORTANT NOTICE: Applicants must meet *ALL* eligibility requirements under the U.S. law in order to be issued visas. *Processing of applications and issuance of diversity visas to successful applicants and their eligible family members MUST occur by September 30, 2003.* Family members may not obtain diversity visas to follow to join the applicant in the U.S. after this date. There is NO initial fee, other than postage required to enter the DV–2003 program. The use of an outside intermediary or assistance to prepare a DV–2003 entry is entirely at the applicant's discretion. Qualified entries received directly from applicants or through intermediaries have equal chances of being selected by computer. There is no advantage to mailing early, or mailing from any particular locale. Every application received during the mail-in period will have an equal random chance of being selected within its region. However, *more than one application per person will disqualify the person from registration.*

**Selection of Winners**

The selection of winners is made at random and no outside service can legitimately improve an applicant's chances of being chosen or guarantee that an entry will win. Any service that claims it can improve an applicant's odds is promising something it cannot lawfully deliver.

**Determining 2003 DV Countries**

The Immigration and Naturalization Service (INS) determines the DV regional limits for each year according to a formula specified in section 203(c) of the Immigration and Nationality Act. The following countries are eligible for the 2003 DV Program:

*AFRICA*

ALGERIA
ANGOLA
BENIN
BOTSWANA
BURKINA FASO
BURUNDI
CAMEROON
CAPE VERDE
CENTRAL AFRICAN REPUBLIC
CHAD
COMOROS
CONGO
CONGO, DEMOCRATIC REPUBLIC OF THE
COTE D'IVIORE (IVORY COST)
DJIBOUTI
EGYPT
EQUATORIAL GUINEA
ERITREA
ETHIOPIA
GABON
GAMBIA, THE
GHANA
GUINEA
GUINEA-BISSAU
KENYA
LESOTHO
LIBERIA
LIBYA
MADAGASCAR
MALAWI
MALI
MAURITANIA
MAURITIUS
MOROCCO
MOZAMBIQUE
NAMIBIA
NIGER
NIGERIA
RWANDA
SAO TOME AND PRINCIPE
SENEGAL SEYCHELLES
SIERRA LEONE
SOMALIA
SOUTH AFRICA
SUDAN
SWAZILAND
TANZANIA
TOGO
TUNISIA
UGANDA
ZAMBIA
ZIMBABWE

*ASIA*

AFGHANISTAN
BAHRAIN
BANGLADESH
BHUTAN
BRUNEI
BURMA
CAMBODIA
HONG KONG SPECIAL ADMINISTRATIVE REGION
INDONESIA
IRAN
IRAQ
ISRAEL
JAPAN
JORDAN
KUWAIT
LAOS
LEBANON
MACAU SPECIAL ADMINISTRATIVE REGION
MALAYSIA
MONGOLIA

NEPAL
NORTH KOREA
OMAN
QATAR
SAUDI ARABIA
SINGAPORE
SRI LANKA
SYRIA
TAIWAN
THAILAND
UNITED ARAB EMIRATES
YEMEN

Asia countries that do not qualify for this year's diversity program: China (mainland-born), India, Pakistan, South Korea, Philippines, and Vietnam.

*EUROPE*

ALBANIA
ANDORRA
ARMENIA
AUSTRIA
AZERBAIJAN
BELARUS
BELGIUM
BOSNIA AND HERZEGOVINA
BULGARIA
CROATIA
CYPRUS
CZECH REPUBLIC
DENMARK (including components and dependent areas overseas)
ESTONIA
FINLAND
FRANCE (including components and dependent areas overseas)
GEORGIA
GERMANY
GREECE
HUNGARY
ICELAND
IRELAND
ITALY
KAZAKHSTAN
KYRGYZSTAN
LATVIA
LIECHTENSTEIN
LITHUANIA
LUXEMBOURG
MACEDONIA, THE FORMER YUGOSLAV REPUBLIC OF
MALTA
MOLDOVA
MONACO
MONTENEGRO
NETHERLANDS (including components and dependent areas overseas)
NORTHERN IRELAND*
NORWAY
POLAND
PORTUGAL
ROMANIA
RUSSIA
SAN MARINO
SLOVAKIA
SLOVENIA
SPAIN
SWEDEN
SWITZERLAND
TAJIKISTAN
TURKEY
TURKMENISTAN
UKRAINE
UZBEKISTAN
VATICAN CITY
YUGOSLAVIA, FEDERAL REPUBLIC OF

European counties that do not qualify for this year's diversity program: Great Britain (including Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Falkland Islands, Gibraltar, Montserrat, Pitcairn, St. Helena, Turks and Caicos Islands.

*** Note:** For the purposes of the diversity program only, Northern Ireland is treated separately and DOES qualify for this year's program.

*NORTH AMERICA*

BAHAMAS, THE

In North American, CANADA does not qualify for this year's diversity program.

*OCEANIA*

AUSTRALIA (including components and dependent areas overseas)
FIJI
KIRIBATI
MARSHALL ISLANDS\
MICRONESIA, FEDERATED STATES OF
NAURU
NEW ZEALAND (including components and dependent areas overseas)
PALAU
PAPUA NEW GUINEA
SAMOA
SOLOMON ISLANDS
TONGA
TUVALU
VANUATU

*SOUTH AMERICAN, CENTRAL AMERICAN, AND THE CARIBBEAN*

ANTIGUA AND BARBUDA
ARGENTINA
BARBADOS
BELIZE
BOLIVIA
BRAZIL
CHILE
COSTA RICA
CUBA
DOMINICA
ECUADOR
GRENADA
GUATEMALA
GUYANA
HONDURAS
NICARAGUA
PANAMA
PARAGUAY
PERU
ST. KITTS AND NEVIS
ST. LUCIA
ST. VINCENT AND THE GRENADINES
SURINAME
TRINIDAD AND TOBAGO
URUGUAY
VENEZUELA

Countries in this region that do NOT qualify for this year's diversity program: Colombia, Dominican Republic, El Salvador, Haiti, Jamaica and Mexico.

**Notifying Winners**

*Only successful entrants will be notified.* They will be notified by mail between April and July of 2002 at the address listed on their entry. Winners will also be sent instructions on how to apply for an immigrant visa, including information on the fee for immigrant visas and a separate visa lottery surcharge.

Successful entrants must complete the immigrant visa application process and meet all eligibility requirements under U.S. law to be issued a visa. Being selected as a winner in the DV Lottery does not automatically guarantee issuance of a visa, even if the applicant is qualified, because the number of entries selected and registered is greater than the number of immigrant visas available. Those selected will, therefore, need to complete and file their immigrant visa applications quickly. *Once all the diversity visas have been issued or on September 30, 2003, whichever is sooner, the DV Program for Fiscal Year 2003 will end.*

**Obtaining Instructions on Entering the DV Lottery**

Interested persons may call (202) 331–7199, which describes the various means to obtain further details on entering the DV–2003 program. Applicants overseas may contact the nearest U.S. embassy or consulate for instructions on the DV lottery. DV information is also available in the *Visa Bulletin,* on the Internet at *http://travel.state.gov* or via the Consular Affairs automated fax at (202) 647–3000 (code 1103). Calls to the automated fax service must be made from a fax machine using the receiver or voice option of the caller's fax equipment.

Dated: July 24, 2001.

**Mary A. Ryan,**

*Assistant Secretary for Consular Affairs, Department of State.*

[FR Doc. 01–19025 Filed 7–31–01; 8:45 am]

**BILLING CODE 4710–06–P**

## DEPARTMENT OF STATE

**[Notice Number 3677]**

## Shipping Coordinating Committee; Notice of Meeting

The Shipping Coordinating will conduct an open meeting at 9 a.m. on Friday, September 7, 2001, in Room 6319, at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001. This meeting will discuss the upcoming 44TH Session of the Subcommittee on Stability and Load Lines and on Fishing Vessels Safety (SLF) and associated bodies of the International Maritime Organization (IMO) which will be held on September 17–21, 2001, at the IMO Headquarters in London, England.

Items of discussion will include the following:

a. Harmonization of damage stability provisions in the IMO instruments,

b. Revision of technical regulations of the 1966 International Load LineConvention,

c. Revisions to the Fishing Vessel Safety Code and Voluntary Guidelines,

d. Large Passenger Vessel Safety,

e. Matters relating to Bulk Carrier Safety, and

f. High Speed Craft Code amendments and model tests.

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing: Mr. Paul Cojeen, U.S. Coast Guard Headquarters, Commandant (G–MSE–2), Room 1308, 2100 Second Street, SW., Washington, DC 20593–0001 or by calling (202) 267–2988.

Dated: July 24, 2001.

**Stephen Miller,**

*Executive Secretary, Shipping Coordinating Committee, U.S. Department of State.*

[FR Doc. 01–19193 Filed 7–31–01; 8:45 am]

**BILLING CODE 4710–07–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Proposed Advisory Circular (AC) 34–1A, Fuel Venting and Exhaust Emissions Requirements for Turbine Engine Powered Airplanes

**AGENCY:** Federal Aviation Administration.

**ACTION:** Notice.

**SUMMARY:** This notice invites public comment on a proposed advisory circular (AC) that provides updated guidance for implementing the fuel venting and exhaust emission requirements for turbine engine powered airplanes.

**DATES:** Comments must be received on or before October 1, 2001.

**ADDRESSES:** Send all comments on the proposed AC to: Curtis Holsclaw, Manager of Emissions Division, AEE–300, Office of Environment and Energy, 800 Independence Avenue, SW., Washington, DC 20591. Comments may be examined at the above address between 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Edward McQueen, Emissions Division, AEE–300, Office of Environment and Energy, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3560; E-mail: *edward.mcqueen@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

A copy of the subject AC may be obtained by contacting the person named above under **FOR FURTHER INFORMATION CONTACT.** Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments, as they may desire. Commenters must identify the title of the AC and submit comments in duplicate to the address specified above. All comments received on or before the closing date for comments will be considered before issuing the final AC.

**Discussion**

Advisory Circular (AC) 34–1A, Fuel Venting and Exhaust Emission Requirements for Turbine Engine Powered Airplanes, has been written to provide section-by-section guidance on 14 CFR part 34 (part 34). The AC is intended to provide a better understanding of the provisions of the part 34, and to facilitate standardized implementation of the part 34 throughout the aviation industry. The AC contains updated information concerning the standards and requirements for aircraft fuel venting and engine emission certification, and presents explanatory information and guidance, as necessary, to identify acceptable means of compliance. The information contained in the AC sets forth acceptable means, but not the sole means, by which compliance may be shown with the requirements of part 34.

Pursuant to the Clean Air Act, sections 231 and 232, part 34 must conform to 40 CFR part 87 (part 87) as issued by the United States Environmental Protection Agency. Potential users of this proposed AC, as well as part 34, should be alert to any changes to part 87 that have not yet been included in either part 34 or this AC. In such instances the requirements of part 87 are considered controlling.

In addition to the section-by-section explanations, the AC includes three chapters that explain specific appendices from the International Civil Aviation Organization (ICAO), Annex 16, Volume II, Aircraft Engine Emissions. Since Annex 16 is specifically referenced in part 34, these chapters are included to make the AC a more complete reference source.

The ICAO appendices deal with detailed technical issues regarding instrumentation and measurement techniques and, as such, are relatively complex. Thus, they have been kept distinct from the rest of the AC as separate chapters. Typically, only those readers who are interested in specific equations and/or details regarding measurement techniques will need to read these sections.

Issued in Washington, DC, on July 26, 2001.

**Carl E. Burleson,**

*Director of Environment and Energy.*

[FR Doc. 01–19155 Filed 7–31–01; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Policy Statement Number ACE–01–23.1093(b)]**

### Proposed Issuance of Policy Memorandum, Compliance With Induction System Icing Protection (14 CFR part 23, § 23.1093(b)) for Part 23 Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of policy statement; request for comments.

**SUMMARY:** This document proposes to adopt new policy for compliance with induction system icing protection for certification of normal, utility, acrobatic, and commuter category turbine powered airplanes with propeller beta mode pitch settings.

**DATES:** Comments sent must be received by August 31, 2001.

**ADDRESSES:** Send all comments on this proposed policy statement to the individual identified under **FOR FURTHER INFORMATION CONTACT.**

**FOR FURTHER INFORMATION CONTACT:** Randy Griffith, Federal Aviation Administration, Small Airplane Directorate, Regulations and Policy Branch, ACE–111, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4126; fax (816) 329–4090; email: <randy.griffith@faa.gov>.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

*How Do I Comment on the Proposed Policy?*

We invite your comments on this proposed policy statement, ACE–01–23.1093(b). You may send whatever written data, views, or arguments you choose. Mark your comments, ''Comments to policy statement ACE–01–23.1093(b)'' and send two copies to the above address. We will consider all comments received on or before the closing date. We may change the proposals contained in this notice because of the comments received.

You may also send comments using the following Internet address:

<randy.griffith@faa.gov>. Comments sent by fax or the Internet must contain ''Comments to policy statement ACE–01–23.1093(b)'' in the subject line. You do not need to send two copies. Format in Microsoft Word 97 for Windows or ASCII text any comments you send via the Internet as attached electronic files.

Send comments using the following format:

Organize comments issue-by-issue. For example, discuss a comment concerning design evaluation and a comment about maintenance as two separate issues.

For each issue, state what specific change you are seeking to the proposed policy memorandum.

Include justification (for example, reasons or data) for each request.

**The Proposed Policy**

**Purpose**

*What is the Purpose of this Policy Statement?*

The purpose of this policy statement is to provide compliance guidance for the engine induction system ice protection requirements contained in 14 CFR, part 23, § 23.1093(b), which is applicable to part 23 turbine powered airplanes. Except for the information contained in Advisory Circulars (AC) 20–73 and 23.1419–2A, this guidance cancels and supersedes previous guidance on § 23.1093(b) compliance for part 23 normal, utility, acrobatic, and commuter category airplanes.

The guidance contained in AC 20–73 and 23.1419–2A, relevant to § 23.1093(b) compliance, is still applicable.

Applicants and FAA Aircraft Certification Offices (ACO) involved with certification of small airplanes should generally follow this policy. Applicants should expect that the ACO would consider this information when making findings of compliance. However, in determining compliance with certification standards, each ACO has the discretion to deviate from these guidelines when the applicant demonstrates a suitable need. To ensure standardization, the ACO should coordinate deviation from this policy with the Small Airplane Directorate.

**References**

FAA Aeronautical Information Manual (AIM).

Advisory Circular 23.1419–2A, Certification of Part 23 Airplanes for Flight in Icing Conditions.

Advisory Circular 20–73, Aircraft Ice Protection.

Advisory Circular 29–2C, Certification of Transport Category Rotorcraft.

**Flight into Icing Approval**

It is important to know that compliance with § 23.1093(b) for induction system icing protection, the initial requirement being incorporated by Amendment 23–7, is independent of approval for flight into icing (§ 23.1419 compliance). Propulsion system items that were intended to be certificated to the level of flight into icing approval are addressed under § 23.929, initially adopted by Amendment 23–14. Service experience has shown that airplanes encounter icing conditions even if the airplane is not approved for flight into icing. This is particularly true with turbine powered airplanes, which typically have an expanded operating flight envelope as compared to reciprocating engine powered airplanes. To provide a minimum level of ice protection for all for part 23 normal, utility, acrobatic, and commuter category airplanes, compliance with all the requirements contained in § 23.1093 must be demonstrated even if flight into icing approval is not obtained. Therefore, compliance with § 23.1093(b) is required even if flight into icing certification is not pursued.

**Use of Similarity and Service Experience**

The use of similarity and service experience is appropriate to lessen the design risk associated with an installation. Once an applicant has developed data on an installation, then the applicant may use this data, when suitable, for substantiation on later projects with similar installations. It is common and proper for an applicant to base analytical methods and test point definitions on experience and testing of previous, similar certification programs performed by the applicant. However, since certification data helps define the type design of an airplane, for one applicant to use data from another applicant's certification program as substantiation, access to the specific design and test considerations used by the second applicant would be required. Therefore, the proper use of similarity data by an applicant to support analytical methods and testing requirements would be difficult if the data was not based on the applicant's past projects or if the project is not being performed in cooperation with another applicant.

Even if previous experience and data are used, each inlet/engine installation and the associated operating characteristics can be different and should be considered individually. Therefore, it is not appropriate to use similarity or service experience by itself for the purpose of demonstrating compliance to the § 23.1093(b) requirement. Rather, such means as similarity or service experience should be supplemented with either analysis, even if only basic design analysis to substantiate similarity, or testing, or a combination of both.

**Use of Tunnel Test Data**

An area where there has been much discussion has been the use of tunnel test data instead of full-scale, airplane flight test data for showing compliance with § 23.1093(b). The use of tunnel test data is a common, appropriate, and often efficient means to reduce the amount of testing required by the applicant for showing compliance. However, the extent that this data can be used for compliance is dependent upon how representative the test article and test conditions are to the installation and airplane operating conditions.

It is not uncommon for tunnel testing to be performed on a prototype or test inlet that often has design differences from the production inlet used by an installer. When using tunnel test data, or any test data for that matter, as a basis for testing or certification, the applicant must address the differences and the impact of the differences. Three areas of difference usually addressed are:

(1) Heated versus non-heated inlets;

(2) Inlets with movable or variable internal devices (for example, movable vanes used to select bypass modes on a number of turbopropeller inlets) versus fixed inlets; and

(3) Differences in geometry even if the inlet type (fixed versus variable) is the same.

As an example, if tunnel testing is performed with a heated inlet and an applicant incorporates a non-heated inlet, ice runback/refreeze may be reduced, but items such as ice accretion characteristics will be different.

Also, it must be ensured that the tunnel tests were performed at the critical points. Advisory Circular 20–73, Aircraft Ice Protection, provides guidance on critical points determination.

**14 CFR Part 33 Engine Certification**

The airplane applicant should coordinate the installation of an engine with the engine manufacturer. Engine certification will identify critical points, conditions, and operational requirements that may need to be addressed when showing compliance with the installation requirements. However, it is inappropriate to assume that part 33 engine certification would

fully address the part 23 engine installation requirements.

It should be emphasized that it is the responsibility of the airplane applicant and not the engine manufacturer to show compliance with the part 23 induction system ice protection requirements. Items such as use of an inlet system recommended by the engine manufacturer would still require installation substantiation to show compliance with part 23 requirements.

It is appropriate to use engine certification data as the basis for reducing design risk, analysis, testing, and so forth; however, when showing compliance with § 23.1093(b) it is still the responsibility of the installer to evaluate this data and demonstrate how the data is applicable to the particular application. Therefore, close coordination of the engine and airplane applicant can ease certification burdens and enhance the safety of a particular engine installation.

**Falling and Blowing Snow Requirement**

The requirement contained in § 23.1093(b)(1)(ii), incorporated initially by Amendment 23–15, is to evaluate the installed powerplant system to ensure no hazardous effects are encountered when operating in falling and blowing snow. A hazardous effect could be in the form of unacceptable engine operating characteristics (for example, adverse power loss, surges, and so forth) due to inlet blockage or engine damage resulting from conditions such as snow, which may accumulate, melt, refreeze, shed, and then be ingested by the engine. The requirement was incorporated separately from icing and water ingestion requirements due to the unique characteristics of snow. Therefore, it is inappropriate to assume that compliance with engine induction system icing requirements means that compliance with snow requirements have been met.

Service experience has demonstrated that engine damage can occur as a result of prolonged ground operations in falling and blowing snow. Also, in-flight service experience has shown that snow, which has melted and refrozen, can shed from engine, inlet, or airplane accumulation sites, resulting in adverse engine operability or engine damage. Therefore, the effect of ingesting snow during ground operations and critical in-flight operations should be evaluated. The snow environment that has been seen to be critical is a ''wet, sticky snow,'' which accumulates on unheated exterior and interior surfaces subject to impingement.

When showing compliance with § 23.1093(b)(1)(ii), review of the installation should be performed to identify potential inlet, engine, and airframe sites where snow accumulation and shedding is possible. Also, review of the airplane operation should be performed to determine critical conditions that should be addressed.

Although all turbine engine installations should be evaluated, turbopropeller installations generally have different areas of concern than turbofan/jet installations. Typical turbopropeller installations have inlets that incorporate complex geometry with features such as particle separators, plenum chambers, screens, oil coolers, and so forth, where hazardous snow accumulations may occur. Typical turbofan/jet installations, using simple pitot (straight duct) inlets, have minimal, if any, areas for snow accumulation. For these inlets, in-flight icing tests have been generally been found to be more critical than snow tests. Therefore, a turbofan/jet installation may be found acceptable by inlet design and airplane operation analysis, while turbopropeller installations will normally require testing in operationally representative conditions.

However, it needs to be reemphasized that the installation should be evaluated to decide on the required level of substantiation. For example, aft mounted turbofan/jet installations may have concerns with snow shed from wing surfaces. Also, there are turbofan installations with S-type inlet ducts that would have many of the same concerns as turbopropeller installations. Additionally, part 33 engine certification does not address snow ingestion and some turbofan/jet engines, in addition to turbopropeller engines, may have internal accumulation sites that may allow snow to melt, refreeze, and shed causing internal engine damage. Therefore, all turbine engines should be evaluated with close coordination with the engine manufacturers.

When evaluating the conditions for showing compliance, the following airplane operations should be considered:

1. Static operation with the engine at idle for 30 minutes, with the ability to attain take-off power. This condition is considered critical due to the operational consideration of idling an engine on the ground with minimal ability for de-ice/anti-ice. The primary concern is the loss of power at take-off roll.

If found acceptable, the engine may be able to be run up at higher power settings during the 30 minute period for the purposes of ice/snow shed. If run-ups are performed during compliance demonstration, these procedures should be incorporated as limitations in the Flight Manual.

Before run-ups are accepted, the practicality of the procedures should be evaluated. For example, if an engine must be run at a high power setting that may allow the airplane to slide or create hazards to other airplanes, then the procedures may not be acceptable.

2. Higher power settings, which could result in increased snow ingestion, associated with taxi/hold ground operations.

3. For airplanes with identified sites of possible hazardous snow accumulation and all inlets with bypass ducts (for example, typical turbopropeller inlets), a take-off run to take-off speed. This condition is considered critical since

(a) accumulated snow may liberate at this dynamic condition; and

(b) the static, idle point will not provide the ram effects that create bypass flow for bypass ducts.

4. For airplanes with identified sites of possible hazardous snow accumulation, take-off climb. This condition is considered critical since accumulated snow may liberate at this dynamic condition.

5. Extended in-flight operations such as hold patterns.

6. Operation when engine rotor speeds are low, such as during descent from high altitudes. An engine is highly susceptible to snow/ice accretion during this condition.

It should be noted that the preceding conditions are operational considerations and not meant to require flight test at all the conditions. As mentioned earlier, each installation may have different critical operational considerations and only the critical conditions may need further substantiation than just analysis.

Also, when appropriately substantiated by the applicant, some of the conditions can be, and have been, simulated and accepted by the FAA. For example, for a turbopropeller engine that incorporates an inlet screen that precludes the ingestion of hazardous quantities of materials, the critical concern to be addressed may only be the effect of snow accumulation and release from the inlet and screen. In this case, the inlet, bypass duct, inlet screen, and so forth, could be blocked to simulate snow accumulation on an identified area of concern. Since accumulation during dynamic operation would be simulated, the effects of snow ingestion could be determined through ground tests (for example, effects of operability on items such as reverse flow). Such

methodologies need to be substantiated by means such as design analysis, operational review, tunnel tests, icing tests, and so forth, and coordinated early with the FAA.

When testing in ''falling and blowing snow'' the actual snow amount is often difficult to quantify. The FAA Aeronautical Information Manual (AIM), an official FAA guide to basic flight information and air traffic control procedures, may be used as guidance for what constitutes falling and blowing snow. Per the AIM, paragraph 7–1–18, heavy snow, which is representative of what may be expected in operation, is defined as visibility of ¼ mile or less as limited by snow (not snow and fog). These conditions are usually indicative of the wet snow environment desired for test. When using the ¼ mile or less visibility for test, including flight tests, this value can be determined using ground conditions. Advisory Circular 29–2C (Certification of Transport Category Rotorcraft), section AC 29–1093, paragraph c(4)(iv) also provides information on snow quantification including desired snow concentration, which is acceptable for use on part 23 airplanes.

As discussed earlier, the primary consideration is to demonstrate operability in a snow environment that is critical as far as snow accumulation on exterior and interior areas of impingement (for example, wet, sticky snow). Therefore, in addition to a snow environment indicative of a representative concentration expected for the airplane, temperature is also an important consideration. The applicant is responsible for defining the critical ambient temperatures for snow tests.

Typically, in natural conditions a temperature range between 25 and 34 degrees Fahrenheit has been found conducive to the heavy snow environment. However, colder temperatures may be critical to some configurations. For example, in some installations, colder exterior surfaces may be bypassed, with snow crystals sticking to partially heated interior inlet surfaces, leading to melting and refreeze. In all cases, the applicant must identify and evaluate the critical temperature for the configuration proposed. Company developmental tests or experience with similar induction systems may be used to determine critical conditions.

It should be emphasized that the purpose of the requirement is to evaluate the engine's induction system ice protection capability in snow environments that can be expected during the operational life of the airplane. Addressing the snow environment, detailed in resource materials such as the AIM, at critical operational conditions for a particular airplane, provides a good gauge to evaluate the system's capability. Most configurations will not require flight test in all operational conditions.

Snow concentration corresponding to the visibility prescribed is often extremely difficult to locate naturally. Furthermore, it is often difficult to maintain the desired concentrations for the duration of testing. Because of these testing realities, it is very likely that exact target test conditions will not be achieved for all possible test conditions. Therefore, those involved in certification must exercise reasonable engineering judgement in accepting critical test conditions and alternate approaches, with early coordination between the applicant and the FAA addressing these realities.

Artificially produced snow is an excellent developmental tool and has been used successfully to show potential problem areas and critical test points. When the desired snow concentration is not found, artificial means may be used to supplement the snow amount. However, when snow testing is required, the use of simulated snow is normally not used as the sole means of compliance. The desired heavy snow environment produces ''wet, sticky snow,'' which accumulates on unheated exterior and interior surfaces subject to impingement. Most artificial means (for example snow blowers) produce snow pellets that are dissimilar to the snowflakes associated with ''wet, sticky snow.'' Also, simulated snow produced indoors does not accumulate moisture from snow fall as seen in naturally created snow, with critical temperatures for simulated snow varying significantly from natural snow. Therefore, quantification of artificially produced snow to get critical conditions can be very difficult and subjective. If artificial means is proposed as a means of compliance, the applicant should provide data and substantiation on how the artificial means will effectively simulate the critical, desired operational consideration.

The concentration of snow entering the inlet in blowing snow will normally exceed the amount in falling snow; hence, the need to address ''blowing snow.'' Therefore, the location of the inlets should be considered to determine critical directions of blowing snow in relation to snow accumulation on impingement surfaces. Snow blowing in excess of 15 knots is the desired compliance condition. Means such as use of another airplane's propeller, taxiing the airplane in excess of 15 knots, and so forth, may be used to simulate blowing.

An additional area of emphasis for § 23.1093(b)(1)(ii) compliance is the words in the regulation ''* * * within the limitations established for the airplane for such operation.'' As with all environmental considerations, such as rain, ice, hail, lightning, and so forth, operation in snow is considered an unavoidable, meteorological hazard that must be addressed. The only plausible Flight Manual limitation that may be acceptable would be prohibitions for ground operations such as taxi, take-off, engine runs, and so forth. However, the case of flying into snow after deployment must be considered.

**Ice Fog**

The basic requirement contained in § 23.1093(b)(2), also incorporated by Amendment 23–15, addresses the condition of idling the engine on the ground to ensure no adverse ice build-up (for example, no surges, adverse power loss, and so forth), commonly referred to as ''ice fog.'' A way to view the § 23.1093(b)(2) requirement is as an extension upon the 14 CFR, part 25, Appendix C icing envelope addressed in § § 23.1093(b)(1)(i) and 23.1419. Therefore, the methodologies and analysis used for compliance with § 23.1093(b)(1)(i) can be extended for § 23.1093(b)(2) compliance.

It is often difficult to encounter all the ambient conditions required by § 23.1093(b)(2); therefore, when testing, one or more of the conditions is typically simulated. For example, a common and acceptable method of compliance is using water spray devices to simulate the water conditions required, while testing at the required ambient temperature conditions. Other manufacturers have used thermal analysis combined with dry air tests using ice shapes/simulated blockage to demonstrate compliance, which is also acceptable if properly substantiated.

The rule allows an engine run-up periodically to higher power settings to shed ice. As with snow testing, if run-ups are performed during compliance demonstration, then these procedures should be incorporated as limitations in the Flight Manual. Also, before run-ups are accepted, the practicality of the procedures should be evaluated.

Issued in Kansas City, Missouri, on July 18, 2001.

**James E. Jackson,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 01–19154 Filed 7–31–01; 8:45 am]

BILLING CODE 4910–13–U

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### RTCA Special Committee 159: Minimum Operational Performance Standards for Airborne Navigation Equipment Using Global Positioning System (GPS)

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of RTCA special committee 159 meeting.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 159: Minimum Operational Performance Standards for Airborne Navigation Equipment Using Global Positioning System (GPS).

**DATES:** The meeting will be held August 27–30, 2001, from 9 am to 4:30 pm (unless stated otherwise).

**ADDRESSES:** The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 159 meeting. The agenda will include:

- August 27 (1–4:30pm):
- Working Group 1 (3rd Civil Frequency); Ad Hoc Working Group (JHU/APL Report Response); Working Group 4 (Editors).
- August 28:
- Working Group 2 (GPS/WAAS); Working Group 4 (Precision Landing Guidance [GPS/LAAS]); Working Group 6 (GPS/Interference).
- August 29:
- Working Group 2 (GPS/WAAS); Working Group 4 (Precision Landing Guidance [GPS/LAAS]); Working Group 5 (Surface Surveillance).
- August 30:
- Opening Plenary Session (Welcome and Introductory Remarks, Approve Minutes of Previous Meeting).
- Review Working Group Progress and Identify Issues for Resolution.
- Review of EUROCAE activities.
- Final Review/Approval of: Revised RTCA DO–229B, WAAS MOPS, RTCA Paper No. 193–01/SC159–876; Revised RTCA DO–253, LAAS MOPS, RTCA Paper No. 182–01/SC159–875; Revised RTCA DO–246A, LAAS ICD, RTCA Paper No. 181–01/SC159–874.
- Closing Plenary Session (Assignment/Review of Future Work, Other Business, Date and Place of Next Meeting).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 25, 2001.

**Janice L. Peters,**

*FAA Special Assistant, RTCA Advisory Committee.*

[FR Doc. 01–19158 Filed 7–31–01; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### RTCA Government/Industry Free Flight Steering Committee Meeting

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of RTCA Government/Industry Free Flight Steering Committee meeting.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of the RTCA Government/Industry Free Flight Steering Committee.

**DATES:** The meeting will be held August 8, 2001, from 1–5 p.m.

**ADDRESSES:** The meeting will be held at FAA Headquarters, 800 Independence Avenue, SW, Bessie Coleman Conference Center (Room 2AB), Washington, DC 20591.

**FOR FURTHER INFORMATION CONTACT:** RTCA Secretariat, 1828 L Street, NW, Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http.//www.rtca.org.*

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Free Flight Steering Committee meeting. The agenda will include:

- August 8.
- Opening Session (Welcome and Introductory Remarks, Review/Approve Summary of Previous Meeting).
- FAA Reports:
- Operational Evolution Plan.
- Free Flight Program Office Update.
- Report/Recommendations from the Free Flight Select Committee.
- Closing Session (Other Business, Date and Place of Next Meeting).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 25, 2001.

**Janice L. Peters,**

*FAA Special Assistant, RTCA Advisory Committee.*

[FR Doc. 01–19157 Filed 7–31–01; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### RTCA Special Committee 172: Future Air-Ground Communications in the VHF Aeronautical Data Band (118–137 MHz)

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of RTCA Special Committee 172 meeting.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 172: Future Air-Ground Communications in the VHF Aeronautical Data Band (118–137 MHz).

**DATES:** The meeting will be held August 14–16, 2001 starting at 9:00 am each day.

**ADDRESSES:** The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC, 20036.

**FOR FURTHER INFORMATION CONTACT:** (1) RTCA Secretariat, 1828 L Street, SW., Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 172 meeting. The agenda will include:

August 14

- Opening Plenary Session (Welcome and Introductory Remarks, Review of Agenda, Review Summary of Previous Meeting)
- FAA Certification Concerns reference Minimum Operational Performance Standard (MOPS) and Technical Standard Orders (TSOs)

• Form Working Group 3: VHF Data Link 2 MOPS work continues

August 15

• Working Group 3: VHF Data Link 2 MOPS work continues

August 16

• Plenary Reconvenes (Review Status of Working Groups 2 and 3)
• Review of Relevant International Activities (AMCP Working Groups, Working Group 47 Status and Issues)
• Report on Digital Activities (NEXCOM Aviation Rulemaking Committee [NARC], AEEC SAI work, Others as appropriate)
• Closing Session (Other Business, Establish Agenda for Next Meeting, Date and Place of Next Meeting)
• Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 25, 2001.

**Janice L. Peters,**

*FAA Special Assistant, RTCA Advisory Committee.*

[FR Doc. 01–19159 Filed 7–31–01; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### RTCA Special Committee 198: Next-Generation Air/Ground Communications System (NEXCOM)

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of RTCA Special Committee 198 meeting.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 198: Next-Generation Air/Ground Communications system (NEXCOM).

**DATES:** The meeting will be held on August 15, 2001, starting at 9:00 a.m.

**ADDRESSES:** The meeting will be held at ARINC, 2551 Riva Road, Building 6, Room 6A1, Annapolis, MD 21401.

**FOR FURTHER INFORMATION CONTACT:** RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 198 meeting. The agenda will include:

August 15

• Opening Session (Welcome and Introductory Remarks, Review Minutes of Previous Meeting)
• Review and Discuss Comments on the Final Draft of the Document: *Response to the Report of the Chairman's Committee on NEXCOM*
• Review Position Papers for Working Group 2 (Principles of Operation)
• Review Draft of WG–2 and Receive Plenary Session Comments
• Closing Session (Review Status of Action Items, Date and Place of Next Meeting)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 25, 2001.

**Janice L. Peters,**

*FAA Special Assistant RTCA Advisory Committee.*

[FR Doc. 01–19160 Filed 7–31–01; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

### Voluntary Intermodal Sealift Agreement (VISA)

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice of open season for enrollment in fiscal year (FY) 2002 VISA Program.

#### Introduction

The VISA program was established pursuant to section 708 of the Defense Production Act of 1950, as amended (DPA), which provides for voluntary agreements for emergency preparedness programs. VISA was approved for a two year term on January 30, 1997, and published in the **Federal Register** on February 13, 1997, (62 FR 6837). Approval was extended through February 13, 2003, and published in the **Federal Register** on February 20, 2001 (66 FR 10938).

As implemented, VISA is open to U.S.-flag vessel operators of militarily useful vessels, including bareboat charter operators if satisfactory signed agreements are in place committing the assets of the owner to the bareboat charterer for purposes of VISA. By order of the Maritime Administrator on August 4, 1997, participation of U.S.-flag deepwater tug/barge operators in VISA was encouraged. Time, voyage, and space charterers are not considered U.S.-flag vessel operators for purposes of VISA eligibility.

#### VISA Concept

The mission of VISA is to provide commercial sealift and intermodal shipping services and systems, including vessels, vessel space, intermodal systems and equipment, terminal facilities, and related management services, to the Department of Defense (DOD), as necessary, to meet national defense contingency requirements or national emergencies.

VISA provides for the staged, time-phased availability of participants' shipping services/systems to meet contingency requirements through prenegotiated contracts between the Government and participants. Such arrangements are jointly planned with the Maritime Administration (MARAD), U.S. Transportation Command (USTRANSCOM), and participants in peacetime to allow effective and best valued use of commercial sealift capacity, to provide DOD assured contingency access, and to minimize commercial disruption, whenever possible.

VISA Stages I and II provide for prenegotiated contracts between the DOD and participants to provide sealift capacity to meet all projected DOD contingency requirements. These contracts are executed in accordance with approved DOD contracting methodologies. VISA Stage III will provide for additional capacity to the DOD when Stage I and II commitments or volunteered capacity are insufficient to meet contingency requirements, and adequate shipping services from non-participants are not available through established DOD contracting practices or U.S. Government treaty agreements.

#### FY 2002 VISA Enrollment Open Season

The purpose of this notice is to invite interested, qualified U.S.-flag vessel operators that are not currently enrolled in the VISA program to participate in the program for FY 2002 (October 1, 2001 through September 30, 2002). Current participants in the VISA program are not required to apply for FY 2002 reenrollment, as VISA

participation will be automatically extended for FY 2002. This is the fourth annual enrollment period since the commencement of VISA. The annual enrollment was initiated because VISA has been fully integrated into DOD's priority for award of cargo to VISA participants. It is necessary to link the VISA enrollment cycle with DOD's peacetime cargo contracting cycle.

New VISA applicants are required to submit their applications for the FY 2002 VISA program as described in this Notice no later than August 31, 2001. This alignment of VISA enrollment and eligibility for VISA priority will solidify the linkage between commitment of contingency assets by VISA participants and receiving VISA priority consideration for the award of FY 2002 DOD peacetime cargo.

This is the only planned enrollment period for carriers to join VISA and derive benefits for DOD peacetime contracts during FY 2002. The only exception to this open season period for VISA enrollment will be for a non-VISA carrier that reflags a vessel into U.S. registry. That carrier may submit an application to participate in the VISA program at any time upon completion of reflagging.

**Advantages of Peacetime Participation**

Because enrollment of carriers in VISA provides the DOD with assured access to sealift services during contingencies based on a level of commitment, as well as a mechanism for joint planning, the DOD awards peacetime cargo contracts to VISA participants on a priority basis. This applies to liner trades and charter contracts alike. Award of DOD cargoes to meet DOD peacetime and contingency requirements is made on the basis of the following priorities:

- U.S.-flag vessel capacity operated by VISA participants, and U.S.-flag Vessel Sharing Agreement (VSA) capacity held by VISA participants.
- U.S.-flag vessel capacity operated by non-participants.
- Combination U.S.-flag/foreign-flag vessel capacity operated by VISA participants, and combination U.S.-flag/foreign-flag VSA capacity held by VISA participants.
- Combination U.S.-flag/foreign-flag vessel capacity operated by non-participants.
- U.S.-owned or operated foreign-flag vessel capacity and VSA capacity held by VISA participants.
- U.S.-owned or operated foreign-flag vessel capacity and VSA capacity held by non-participants.
- Foreign-owned or operated foreign-flag vessel capacity of non-participants.

**Participants**

Any U.S.-flag vessel operator organized under the laws of a state of the United States, or the District of Columbia, who is able and willing to commit militarily useful sealift assets and assume the related consequential risks of commercial disruption, may be eligible to participate in the VISA program. While vessel brokers and agents play an important role as a conduit to locate and secure appropriate vessels for the carriage of DOD cargo, they may not become participants in the VISA program due to lack of requisite vessel ownership or operation. However, brokers and agents should encourage the carriers they represent to join the program.

**Commitment**

Any U.S.-flag vessel operator desiring to receive priority consideration in the award of DOD peacetime contracts must commit no less than 50 percent of its total U.S.-flag militarily useful capacity in Stage III of the VISA program. A participant desiring to bid on DOD peacetime contracts will be required to provide commitment levels to meet DOD-established Stages I and/or II minimum percentages of the participant's military useful, oceangoing U.S-flag fleet capacity on an annual basis. The USTRANSCOM and MARAD will coordinate to ensure that the amount of sealift assets committed to Stages I and II will not have an adverse national economic impact. To minimize domestic commercial disruption, participants operating vessels exclusively in the domestic Jones Act trades are not required to commit the capacity of those U.S. domestic trading vessels to VISA Stages I and II. Overall VISA commitment requirements are based on annual enrollment.

In order to protect a U.S.-flag vessel operator's market share during contingency activation, VISA allows participants to join with other vessel operators in Carrier Coordination Agreements (CCA's) to satisfy commercial or DOD requirements. VISA provides a defense against antitrust laws in accordance with the DPA. CCA's must be submitted to MARAD for coordination with the Department of Justice for approval, before they can be utilized.

**Compensation**

In addition to receiving priority in the award of DOD peacetime cargo, a participant will receive compensation during contingency activation. During enrollment, each participant may choose a compensation methodology which is commensurate with risk and service provided. The compensation methodology selection will be completed with the appropriate DOD agency.

**Enrollment**

New applicants may enroll by obtaining a VISA application package (Form MA–1020 (OMB Approval No. 2133–0532)) from the Director, Office of Sealift Support, at the address indicated below. Form MA–1020 includes instructions for completing and submitting the application, blank VISA Application forms and a request for information regarding the operations and U.S. citizenship of the applicant company. A copy of the February 20, 2001 VISA will also be provided with the package. This information is needed in order to assist MARAD in making a determination of the applicant's eligibility. An applicant company must be able to provide an affidavit that demonstrates that the company is a citizen of the United States, at least for purposes of vessel documentation, within the meaning of 46 U.S.C., section 12102, and that it owns, or bareboat charters and controls, oceangoing, militarily useful vessel(s) for purposes of committing assets to VISA. As previously mentioned, VISA applicants must return the completed VISA application documents to MARAD not later than August 31, 2001. Once MARAD has reviewed the application and determined VISA eligibility, MARAD will sign the VISA application document which completes the eligibility phase of the VISA enrollment process.

In addition, the applicant will be required to enter into a contingency contract with the DOD. For the FY 2002 VISA open season, and prior to being enrolled in VISA, eligible VISA applicants will be required to execute a joint VISA Enrollment Contract (VEC) with the DOD [Military Traffic Management Command (MTMC) and Military Sealift Command (MSC)] which will specify the participant's Stage III commitment for FY 2002. Once the VEC is completed, the applicant completes the DOD contracting process by executing a Drytime Contingency Contract (DCC) with MSC (for Charter Operators) and/or as applicable, a VISA Contingency Contract (VCC) with MTMC (for Liner Operators). Upon completion of the DOD contingency contract(s), the Maritime Administrator will confirm the participant's enrollment by letter agreement, with a copy to all appropriate parties.

**FOR ADDITIONAL INFORMATION AND APPLICATIONS CONTACT:** Frances M. Olsen, Chief, Division of Sealift Programs, U.S. Maritime Administration, Room 7307, 400 Seventh Street, SW, Washington, DC 20590. Telephone (202) 366–2323. Fax (202) 493–2180. Other information about the VISA can be found on MARAD's Internet Web Page at http://www.marad.dot.gov.

By Order of the Maritime Administrator: Dated: July 27, 2001.

**Murray A. Bloom,**

*Acting Secretary, Maritime Administration.*

[FR Doc. 01–19196 Filed 7–31–01; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

### Reports, Forms, and Record keeping Requirements; Subject: Uniform Safety Program Cost Summary Form for Highway Safety Plan; Correction

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Notice; Correction.

**SUMMARY:** NHTSA published a document in the **Federal Register** of July 24, 2001, 66 FR 38449, concerning request for public comment on proposed collection of information. The document contained an incorrect docket number.

The purpose of this notice is to notify the public of this error so comments are submitted to the correct docket number.

**FOR FURTHER INFORMATION CONTACT:** Walter Culbreath, 202–366–1566.

Correction: In the **Federal Register** of July 24, 2001, in FR Doc. 01–18402, on page 38449, in the third column at the bottom of the page, correct the ''Docket Number'' to read:

[U.S. DOT Docket Number NHTSA–2001–10113]

Issued on: July 27, 2001.

**Herman L. Simms,**

*Associate Administrator for Administration.*

[FR Doc. 01–19201 Filed 7–31–01; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2000–7965]**

### Denial of Petition for Import Eligibility for 1999–2000 Porsche GT3 Passenger Cars

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Denial of petition for import eligibility for 1999–2000 Porsche 911 GT3 passenger cars (GT3).

**DISCUSSION:** This document sets forth the reasons for the denial of a petition submitted to the National Highway Traffic Safety Administration (NHTSA) under 49 U.S.C. 30141(a)(1)(A). The petition, which was submitted by Wallace Environmental Testing Laboratories, Inc. of Houston, Texas (''WETL'')(Registered Importer 90–005), requested NHTSA to decide that GT3's that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS) are eligible for importation into the United States. In the petition, WETL contended that these vehicles are eligible for importation on the basis that (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards (the U.S. certified version of the 1999–2000 Porsche 911 passenger car (911)), and (2) they are capable of being readily altered to conform to the standards.

NHTSA published a notice in the **Federal Register** on October 6, 2000, (65 FR 59889) that contained a thorough description of the petition, and solicited public comments upon it. In a letter dated November 13, 2000, Porsche Cars North America, Inc. (Porsche), the United States representative of the vehicle's foreign manufacturer, commented that GT3's are ineligible for importation because they are not substantially similar to vehicles that were originally manufactured and certified for sale in the United States and are not capable of being readily altered to conform to the standards. Specifically, Porsche observed that the GT3s that are the subject of the petition are equipped with (1) a fuel tank of 90 liters volume compared to 64 liters for the 911 certified for the U.S. market, (2) a 3.6 liter engine for the GT3 compared to the 3.4 liter engine for the 911, (3) a different cooling and lubrication system than the 911, and (4) a different suspension system than the 911.

Porsche also stated that parts of the GT3 have not been subjected to any certification testing for compliance with the FMVSS. Specifically, Porsche observed that the GT3 does not comply with the following FMVSS in the following ways:

*FMVSS 102 Transmission shift lever sequence, starter interlock, and transmission braking effect.* The importer has not submitted any changes to achieve compliance with this standard.

*FMVSS 103 Windshield Defrosting and Defogging System.* The engine of the GT3 is very different from that of the 911 models that were manufactured and certified for sale in the United States. The cooling circuits of both engines differ significantly. As a result, the heating system of the GT3 is different from that of the 911. The GT3 has not been tested for compliance with this standard.

*FMVSS 105 Hydraulic and electric brake systems and FMVSS 135 Passenger Car Brake Systems.* The braking system of the GT3 is significantly different from that of the 911. The braking system of the GT3 has not undergone any testing to establish compliance with this standard.

*FMVSS 106 Brake hoses.* The GT3 uses brake hoses that differ from those of the 911. The brake hoses of the GT3 have not been tested for compliance with this standard.

*FMVSS 201 Occupant protection in interior impact.* The GT3 does not comply with this standard when equipped with the original rollbar.

*FMVSS 202 Head restraints.* The GT3 can be ordered with an optional bucket seat. This seat has not been tested for compliance with this standard. In a vehicle equipped with this optional bucket seat, one seat belt anchorage is different, and this anchorage has not been tested for compliance with FMVSS 210 Seat Belt Assembly Anchorages.

*FMVSS 208 Occupant crash protection.* The air bag system of the GT3 has different structural elements that the 911 (larger fuel tank, different suspension, less weight). The GT3's air bag system has not been tested for compliance with this standard.

*FMVSS 209 Seat belt assemblies.* The GT3's seatbelts do not comply with this standard.

*FMVSS 214 Side impact protection.* The GT3 has a different suspension system than the 911. The GT3 is 40 mm lower than the 911 and this lower suspension has a significant influence on side impact protection. The GT3 has not undergone any compliance testing for this standard. The proposed modifications by the petitioner will not

bring the GT3 to the height in which the U.S. certified 911's were tested for compliance with the FMVSS.

*FMVSS 301 Fuel System Integrity.* The fuel tank of the GT3 is significantly different from that of the 911. The GT3's fuel tank has a larger volume and is in a slightly different location than the 911. The GT3's fuel tank extends further towards the front end of the car and may therefore behave differently than that of a 911 in a crash or rollover. The GT3's fuel tank has not been tested for compliance with this standard. The changes submitted in the importer's petition for the fuel system are not sufficient to secure compliance with this standard.

Porsche also commented that insufficient information had been provided by the petitioner to determine whether the proposed modifications were sufficient to ensure compliance with the following FMVSS: FMVSS 101 Controls and displays, FMVSS 108 Lamps, reflective devices and associated equipment, and FMVSS 114 Theft protection.

NHTSA accorded WETL an opportunity to respond to Porsche's comments. WETL responded on December 15, 2001, with the following comments:

FMVSS 102. The GT3 complies with this standard, as the shift lever pattern of the manual transmission is displayed to the driver at all times.

FMVSS 103. The GT3 engine is different from the engine of the 911, however, the heat exchanger and the blower are identical in material make and part number. The GT3 complies with this standard.

FMVSS 105 and FMVSS 135. The braking systems are not identical, but share many components, with the 2000–2001 Twin Turbo 911 sold in the U.S. The GT3 complies with this standard.

FMVSS 106. All brake hoses will be replaced.

FMVSS 201. The noncomplying optional rollbar would be removed from any GT3 vehicle so equipped.

FMVSS 202 and FMVSS 210. The optional bucket seats would be removed from any GT3 vehicle so equipped.

FMVSS 208. More than one air bag unit is available for the GT3. WETL will verify and substitute the air bag units, as necessary.

FMVSS 209. The seat belt assemblies will be changed.

FMVSS 214 and Part 581. The GT3 will be modified to the exact height of the 911 to meet these requirements. Suspension related parts can readily be changed to the U.S. part number.

FMVSS 301. The fuel tank in the U.S. certified 2002 Porsche GT2 that will be imported by Porsche is identical to the GT3 fuel tank.

Porsche's responded on January 22, 2001, with comments by addressing the following FMVSS:

FMVSS 102. The GT3 does not comply with this standard, it does not have a starter interlock.

FMVSS 103. WETL has not adequately addressed the objections concerning the different engine cooling circuits.

FMVSS 105 and FMVSS 135. The GT3 brake system has not been tested, WETL has not provided test data showing compliance.

FMVSS 208 and FMVSS 301. Contrary to WETL claims, the 2002 GT2 will have the same 64 liter fuel tank used in the 1999/2000 911 Carrera. Porsche has no test data using the larger 90 liter fuel tank, and notes that the ''substantially similar'' determination for the GT3 is being made against the 1999/2000 911, not the 2002 GT2.

WETL submitted a final responsive comment on April 6, 2001, that addressed the following FMVSS:

FMVSS 102. The shift lever pattern of the manual transmission is displayed to the driver. A starter interlock is required by the regulation for a manual transmission.

FMVSS 103. The GT3 is equipped with a similar defrost system as found on the 2001 U.S. 911 Twin Turbo.

FMVSS 105 and FMVSS 135. The braking systems are not identical, but share many components with the 2000–2001 Twin Turbo 911. The GT3 complies with this standard.

FMVSS 208 and FMVSS 301. Fuel tanks will be replaced with the U.S. version.

NHTSA has reviewed the comments from Porsche and WETL and has concluded that, due to the substantial differences in suspension, brakes, engine, fuel tank, and vehicle weight, WETL's petition does not clearly demonstrate that the GT3's that are the subject of the petition are eligible for importation. The petition must therefore be denied under 49 CFR 593.7(e).

In accordance with 49 U.S.C. § 30141(b)(1), NHTSA will not consider a new import eligibility petition covering this vehicle until at least three months from the date of this notice.

**Authority:** 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.7; delegations of authority at 49 CFR 1.50 and 501.8.

Dated: July 27, 2001.

**Marilynne Jacobs,**

*Director, Office of Vehicle Safety, Compliance.*

[FR Doc. 01–19186 Filed 7–31–01; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2001–10175]**

### Notice of Receipt of Petition for Decision That Nonconforming 2001 Mercedes-Benz Gelaendewagen Multi-Purpose Passenger Vehicles Are Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Notice of receipt of petition for decision that nonconforming 2001 Mercedes-Benz Gelaendewagen multi-purpose passenger vehicles (MPVs) are eligible for importation.

**SUMMARY:** This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2001 Mercedes-Benz Gelaendewagen MPVs that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are capable of being readily altered to conform to the standards.

**DATES:** The closing date for comments on the petition is August 31, 2001.

**ADDRESSES:** Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm].

**FOR FURTHER INFORMATION CONTACT:** George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

**SUPPLEMENTARY INFORMATION:**

#### Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Under 49 U.S.C. 30141(a)(1)(B), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety

standards may also be granted admission into the United States, even if there is no substantially similar motor vehicle of the same model year originally manufactured for importation into and sale in United States, if the safety features of the vehicle comply with or are capable of being altered to comply with those standards based on destructive test information or other evidence that NHTSA decides is adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Motors of Baltimore, Maryland (''J.K.'')(Registered Importer 90–006) has petitioned NHTSA to decide whether 2001 Mercedes-Benz Gelaendewagen MPVs are eligible for importation into the United States. J.K. believes that these vehicles can easily be made to conform to all applicable Federal motor vehicle safety standards (FMVSS).

NHTSA previously approved a request for substantially similar vehicles(66 FR 20708). However, that import eligibility determination was for 1999–2000 Mercedes-Benz Gelaendewagen MPVs (VCP–18) that were certified by Europa International, Inc. (''Europa''), as conforming to all applicable FMVSS, prior to their importation into the United States. While J.K. asserts that there are no substantial differences in the 2001 Mercedes-Benz Gelaendewagen MPVs, there is no certified 2001 model year vehicle on which J.K. can rely under 49 U.S.C. 30141(a)(1)(A).

Therefore, J.K. must petition pursuant to 49 U.S.C. 30141(a)(1)(B). J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 2001 Mercedes-Benz Gelaendewagen MPVs, as originally manufactured, conform to many applicable FMVSS and are capable of being readily altered to conform to any standards with which they do not conform.

Specifically, the petitioner claims that non-U.S. certified 2001 Mercedes-Benz Gelaendewagen MPVs are compliant with Standard Nos. 102 *Transmission Shift Lever Sequence * * *.,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 119 *New Pneumatic Tires for Vehicles other than Passenger Cars,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked ''Brake'' for a lens with a noncomplying symbol on the brake failure indicator lamp; (b) replacement of the speedometer with one calibrated in miles per hour. The entire instrument cluster will be changed or reprogrammed to bring it into conformity with U.S. standards

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamps and front sidemarker lamps; (b) modification of U.S.-model taillamp assemblies [as modified] and addition of U.S.-model marker light assemblies; (c) installation of a U.S.-model high mounted stop lamp assembly.

Standard No. 111 *Rearview Mirror:* replacement of the passenger side rearview mirror with a U.S.—model component etched with the appropriate warning statement.

Standard No. 114 *Theft Protection:* installation of a warning buzzer and a warning buzzer microswitch in the steering lock assembly on vehicles that are not already so equipped.

Standard No. 118 *Power Window Systems:* installation, on vehicles that are not already so equipped, of a relay in the power window system so that the windows will not operate when the ignition is switched off.

Standard No. 120 *Tire Selection and Rims for Motor Vehicles other than Passenger Cars:* installation of a tire information placard.

Standard No. 208 *Occupant Crash Protection:* (a) installation of a seat belt warning buzzer, wired to the driver's seat belt latch; (b) inspection of all vehicles imported and replacement of the air bags, control units, sensors, and seat belts with U.S.—model components on vehicles that are not already so equipped. The petitioner states that the vehicles are equipped with driver's and passenger's side air bags and knee bolsters, with combination lap and shoulder belts that are self-tensioning and that release by means of a single red push button at the front and rear outboard seating positions, and with a lap belt at the rear center seating position.

Standard No. 214 *Side Impact Protection:* Inspection of doorbars and installation of doorbars in vehicles that are not already so equipped.

Before submitting its request, the petitioner asked on July 2, 1999, for a determination of confidentiality regarding certain modifications it planned to make in conforming the vehicle to FMVSS No. 108 and 208. The petitioner asserted that the engineering modifications necessary for testing were substantial and considered proprietary due to the expense of development, and that the information could result in substantial competitive harm if disclosed. The agency granted the petitioner's request on September 1, 1999. Accordingly, the petition that was filed on April 4, 2000, and that is available to the public states, with respect to FMVSS No. 108 that the modifications to the taillamp assemblies have been previously granted confidentiality. With respect to FMVSS No. 208, the petition states that ''This vehicle will meet frontal impact test requirements with structural modifications described in a submission that has been granted confidentiality by NHTSA's Office of Chief Counsel under 49 CFR 512.''

The petitioner also states that a vehicle identification plate must be affixed to the vehicle near the left windshield post and a reference and certification label must be affixed in the area of the left front door post to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal**

**Register** pursuant to the authority indicated below.

**Authority:** 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: July 27, 2001.

**Marilynne Jacobs,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 01–19187 Filed 7–31–01; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA 01–10257; Notice 1]**

### Aprilia, SpA; Receipt of Application for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 123

Aprilia SpA of Noale, Italy, has applied for a temporary exemption of its Habana 150 motor scooter, for two years, from a requirement of S5.2.1 (Table 1) of Federal Motor Vehicle Safety Standard No. 123 *Motorcycle Controls and Displays.* The basis of the request is that ''compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall level of safety at least equal to the overall safety level of nonexempt vehicles,'' 49 U.S.C. 30113(b)(3)(iv).

This notice of receipt of an application is published in accordance with the requirements of 49 U.S.C. 30113(b)(2) and does not represent any judgment of the agency on the merits of the application.

If a motorcycle is produced with rear wheel brakes, S5.2.1 of Standard No. 123 requires that the brakes be operable through the right foot control, though the left handlebar is permissible for motor driven cycles (Item 11, Table 1). Aprilia would like to use the left handlebar as the control for the rear brakes of its Habana 150 motorcycle, whose 150 cc engine produces more than the 5 hp maximum that separates motor driven cycles from motorcycles. According to Aprilia, ''the Habana frame has not been designed to mount a right foot operated brake pedal. Applying considerable stress to this sensitive pressure point of the frame could cause failure due to fatigue unless proper design and testing procedures are performed.'' The Habana 150 is described as a ''retro-style'' cruiser scooter, as contrasted with the Aprilia Leonardo 150 sport scooter and the Scarebo 150 touring scooter which we have previously exempted from compliance with the rear brake location requirement of Standard No. 123(see 64 FR 44264 and 65 FR 1225). Absent an exemption, Aprilia will be unable to sell the Habana 150 in the United States because the vehicle would not fully comply with Standard No. 123. It has requested an exemption for two years.

Aprilia argues that the overall level of safety of the Habana 150 equals or exceeds that of a non-exempted motor vehicle for the following reasons. The Habana 150 is equipped with an automatic transmission. As there is no foot operated gear change, ''the operation and use of a motorcycle with an automatic transmission is similar to the operation and use of a bicycle.'' Thus, the Habana 150 can be operated without requiring special training or practice.

Admitting that ''the foot can apply more force than the hand,'' Aprilia believes that this is not important with respect to operation of the Habana 150 because ''even the smallest rider can apply more than enough brake actuation force.'' The petitioner cites tests performed by Carter Engineering on a similar Aprilia scooter to support its statement that ''a motor vehicle with a hand-operated rear wheel brake provides a greater overall level of safety than a nonexempt vehicle.'' See materials in Docket No. NHTSA 98–4357. According to Aprilia, a rear wheel hand brake control allows riders to brake more quickly and securely, it takes a longer time for a rider to find and place his foot over the pedal and apply force than it does for a rider to reach and squeeze the hand lever, and there is a reduced probability of inadvertent wheel locking in an emergency braking situation. Aprilia has provided copies of its own recent test reports on the Habana, dated March 1, 2001, and May 1, 2001, which have been placed in the docket.

Aprilia also points out that European regulations allow motorcycle manufacturers the option of choosing rear brake application through either a right foot or left handlebar control, and that Australia permits the optional locations for motorcycles of any size with automatic transmissions.

An exemption would be in the public interest because the Habana 150 is intended for low-speed urban use, and ''it is expected that it will be used predominantly in congested traffic areas.'' Further, the design of the vehicle has been tested by long use around the world, and ''neither consumer groups nor government authorities have raised safety concerns about this design.'' For this reason, Aprilia argues that an exemption would also be consistent with the objectives of motor vehicle safety.

Interested persons are invited to submit comments on the application described above. Comments should refer to the docket number and the notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. The Docket Room is open from 10:00 a.m. until 5:00 p.m. To the extent possible, comments filed after the closing date will also be considered.

Notice of final action on the application will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: August 31, 2001.

(49 U.S.C. 30113; delegations of authority at 49 CFR 1.50. and 501.8)

Issued on July 27, 2001.

**Stephen R. Kratzke,**

*Associate Administrator for Safety Performance Standards.*

[FR Doc. 01–19188 Filed 7–31–01; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

**[PS–102–88]**

### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–102–88 (TD 8612), Income, Gift and Estate Tax (Sections 20.2056A–3, 20.2056A–4, and 20.2056A–10).

**DATES:** Written comments should be received on or before October 1, 2001 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the regulation should be directed to Martha Brinson (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Income, Gift and Estate Tax.

*OMB Number:* 1545–1360. Regulation Project Number: PS–102–88.

*Abstract:* This regulation concerns the availability of the gift and estate tax marital deduction when the donee spouse or the surviving spouse is not a United States citizen. The regulation provides guidance to individuals or fiduciaries: (1) For making a qualified domestic trust election on the estate tax return of a decedent whose surviving spouse is not a United States citizen in order that the estate may obtain the marital deduction, and (2) for filing the annual returns that such an election may require.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of OMB approval.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 2,300.

*Estimated Time Per Respondent:* 2 hours, 40 minutes.

*Estimated Total Annual Burden Hours:* 6,150.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 25, 2001.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 01–19200 Filed 7–31–01; 8:45 am]

**BILLING CODE 4830–01–P**

Federal Register

**Wednesday,**
**August 1, 2001**

## Part II

# Department of Health and Human Services

### Centers for Medicare & Medicaid Services

**42 CFR Parts 405, 410, 412, et al.**
**Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Rates and Costs of Graduate Medical Education; Fiscal Year 2002 Rates, Etc.; Final Rules**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Medicare & Medicaid Services**

**42 CFR Parts 405, 410, 412, 413, 482, 485, and 486**

**[CMS 1131–F, CMS 1158–F, and CMS 1178–F]**

**RINs 0938–AK20; 0938–AK73; and 0938–AK74**

# Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Rates and Costs of Graduate Medical Education: Fiscal Year 2002 Rates; Provisions of the Balanced Budget Refinement Act of 1999; and Provisions of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Final rules.

**SUMMARY:** We are revising the Medicare hospital inpatient prospective payment systems for operating and capital costs to: implement applicable statutory requirements, including a number of provisions of the Medicare, Medicaid, and SCHIP [State Children's Health Insurance Program] Benefits Improvement and Protection Act of 2000 (Public Law 106–554); and implement changes arising from our continuing experience with these systems. In addition, in the Addendum to this final rule, we describe changes to the amounts and factors used to determine the rates for Medicare hospital inpatient services for operating costs and capital-related costs. These changes apply to discharges occurring on or after October 1, 2001. We also set forth the rate-of-increase limits as well as policy changes for hospitals and hospital units excluded from the prospective payment systems.

We are making changes to the policies governing payments to hospitals for the direct costs of graduate medical education and critical access hospitals.

Lastly, we are responding to public comments received on the following two related interim final rules that we published in the **Federal Register** and finalizing those interim rules:

• An August 1, 2000 interim final rule with comment period (65 FR 47026, HCFA–1131–IFC) that implemented, or conformed the regulations to, certain statutory provisions relating to Medicare payments to hospitals for inpatient services that were contained in the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (Public Law 106–113), and that were effective during FY 2000. These provisions related to reclassification of hospitals from urban to rural status, reclassification of certain hospitals for purposes of payment during fiscal year 2000, critical access hospitals, payments to hospitals excluded from the prospective payment system, and payments for indirect and direct graduate medical education costs.

• A June 13, 2001 interim final rule with comment period (66 FR 32172, HCFA–1178–IFC) that implemented, or conformed the regulations to, certain statutory provisions relating to Medicare payments to hospitals for inpatient services that were contained in Public Law 106–554, and that were effective prior to passage of Public Law 106–554 on December 21, 2000; on April 1, 2001; or on July 1, 2001. Many of the provisions of Public Law 106–554 modified changes to the Social Security Act made by Public Law 106–113 or the Balanced Budget Act of 1997 (Public Law 105–33), or both.

**EFFECTIVE DATE:** The provisions of this final rule are effective October 1, 2001. This rule is a major rule as defined in 5 U.S.C. 804(2). Pursuant to 5 U.S.C. 801(a)(1)(A), we are submitting a report to Congress on this rule on August 1, 2001.

**FOR FURTHER INFORMATION CONTACT:** Stephen Phillips, (410) 786–4548, Operating Prospective Payment, Diagnosis-Related Groups (DRGs), Wage Index, Hospital Geographic Reclassifications, Sole Community Hospitals, Disproportionate Share Hospitals, and Medicare-Dependent, Small Rural Hospitals Issues; Tzvi Hefter, (410) 786–4487, Capital Prospective Payment, Excluded Hospitals, Graduate Medical Education and Critical Access Hospitals Issues.

**SUPPLEMENTARY INFORMATION:**

## Availability of Copies and Electronic Access

*Copies:* To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 or by faxing to (202) 512–2250. The cost for each copy is $9.00. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

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## I. Background

### *A. Summary*

Section 1886(d) of the Social Security Act (the Act) sets forth a system of payment for the operating costs of acute care hospital inpatient stays under Medicare Part A (Hospital Insurance) based on prospectively set rates. Section 1886(g) of the Act requires the Secretary to pay for the capital-related costs of hospital inpatient stays under a prospective payment system. Under these prospective payment systems, Medicare payment for hospital inpatient operating and capital-related costs is made at predetermined, specific rates for each hospital discharge. Discharges are classified according to a list of diagnosis-related groups (DRGs). Each DRG has a payment weight assigned to it, based on the average resources used to treat Medicare patients in that DRG.

Under section 1886(d)(1)(B) of the Act in effect without consideration of the amendments made by Public Law 105–33, Public Law 106–113, and Public Law 106–554, certain specialty hospitals are excluded from the hospital inpatient prospective payment system: psychiatric hospitals and units, rehabilitation hospitals and units, children's hospitals, long-term care hospitals, and cancer hospitals. For these hospitals and units, Medicare payment for operating costs is based on reasonable costs subject to a hospital-specific annual limit, until the payment provisions of Public Laws 105–33, 106–113, and 106–554 that are applicable to three classes of these hospitals are implemented, as discussed below.

Various sections of Public Laws 105–33, 106–113, and 106–554 provide for the transition of rehabilitation hospitals and units, psychiatric hospitals and units, and long-term care hospitals from being paid on an excluded hospital basis to being paid on an individual prospective payment system basis. These provisions are as follows:

• Rehabilitation Hospitals and Units. Section 1886(j) of the Act, as added by section 4421 of Public Law 105–33 and amended by section 125 of Public Law 106–113 and section 305 of Public Law 106–554, authorizes the implementation of a prospective payment system for inpatient hospital services furnished by rehabilitation hospitals and units. Section 4421 of Public Law 105–33 amended the Act by adding section 1886(j). Section 1886(j) of the Act provides for a fully implemented prospective payment system for inpatient rehabilitation hospitals and rehabilitation units, effective for cost reporting periods beginning during or after October 2002, with payment provisions during a transitional period based on target amounts specified in section 1886(b) of the Act. Section 125 of Public Law 106–113 amended section 1886(j) of the Act to require the Secretary to use a discharge as the payment unit for inpatient rehabilitation services under the prospective payment system and to establish classes of patient discharges by functional-related groups. Section 305 of Public Law 106–554 further amended section 1886(j) of the Act to allow hospitals to elect to be paid the full Federal prospective payment rather than the transitional period payments specified in the Act. A final rule implementing the prospective payment system for inpatient rehabilitation hospitals will be published in the **Federal Register** shortly.

• Psychiatric Hospitals and Units. Sections 124(a) and (c) of Public Law 106–113 provide for the development of a per diem prospective payment system for payment for inpatient hospital services of psychiatric hospitals and units under the Medicare program, effective for cost reporting periods beginning on or after October 1, 2002. This system must include an adequate patient classification system that reflects the differences in patient resource use and costs among these hospitals and must maintain budget neutrality. We are in the process of developing a proposed rule, to be followed by a final rule, to implement the prospective payment system for psychiatric hospitals and units, effective for October 1, 2002.

• Long-Term Care Hospitals. Sections 123(a) and (c) of Public Law 106–113 provide for the development of a per discharge prospective payment system for payment for inpatient hospital services furnished by long-term care hospitals under the Medicare program, effective for cost reporting periods beginning on or after October 1, 2002. Section 307(b)(1) of Public Law 106–554 provides that payments under the long-term care prospective payment system will be made on a prospective payment basis rather than a cost basis. The long-term care hospital prospective payment system must include a patient classification system that reflects the differences in patient resource use and costs, and must maintain budget neutrality. We are planning to develop a proposed rule, to be followed by a final rule, to implement the prospective payment system for long-term care hospitals, effective for October 1, 2002. Section 307 of Public Law 106–554 provides that if the Secretary is unable to develop a prospective payment system for long-term care hospitals that can be implemented by October 1, 2002, the Secretary must implement a prospective payment system that bases payment under the system using the existing acute hospital DRGs, modified where feasible to account for resource use of long-term care hospital patients using the most recently available hospital discharge data for long-term care services.

Under sections 1820 and 1834(g) of the Act, payments are made to critical access hospitals (CAHs) (that is, rural hospitals or facilities that meet certain statutory requirements) for inpatient and outpatient services on a reasonable cost basis. Reasonable cost is determined under the provisions of section 1861(v)(1)(A) of the Act and existing regulations under Parts 413 and 415.

Under section 1886(a)(4) of the Act, costs of approved educational activities are excluded from the operating costs of inpatient hospital services. Hospitals with approved graduate medical education (GME) programs are paid for the direct costs of GME in accordance with section 1886(h) of the Act; the amount of payment for direct GME costs for a cost reporting period is based on the hospital's number of residents in that period and the hospital's costs per resident in a base year.

The regulations governing the acute care hospital inpatient prospective payment system are located in 42 CFR part 412. The regulations governing excluded hospitals and hospital units are located in Parts 412 and 413. The regulations governing GME payments are located in Part 413. The regulations governing CAHs are located in Parts 413 and 485.

This final rule implements amendments enacted by Public Law 106–554 relating to updates to FY 2002 payments for hospital inpatient services, hospitals' geographic reclassifications and wage indexes, GME costs, the payment adjustment for disproportionate share hospitals (DSHs), the indirect medical education (IME) adjustment for teaching hospitals, and CAHs. It also implements other changes affecting DRG classifications and relative weights, annual updates to the data used to calculate the wage index, sole community hospitals (SCHs), payments under the inpatient capital prospective payment system, and policies related to hospitals and units excluded from the prospective payment system. These changes are addressed in sections II., III., IV., and VI. of this preamble.

Section 533 of Public Law 106–554 requires the Secretary to establish a mechanism to recognize the costs of new medical services and technologies by October 1, 2001. We proposed a mechanism in the May 4, 2001 proposed rule. We received 61 comments on our proposed criteria to qualify for this special payment and on the proposed mechanism to pay for qualifying new technologies. Due to this large number of comments, we will publish a separate final rule to respond to comments received on our proposal, and to establish a mechanism, by October 1, 2001.

Although we intend to establish the mechanism by October 1, 2001, we will not make additional payments under the mechanism for cases involving new technology during FY 2002 because it is not feasible. This is due to the timing of the enactment of Public Law 106–554 on December 21, 2000, the requirement that we establish the mechanism through notice and an opportunity for public comment, and the requirement that the payments be implemented in a budget neutral manner. That is, it was not feasible to establish the criteria by which new technologies would qualify through a proposed rule with opportunity for public comment as part of the May 4, 2001 proposed rule, finalize those criteria in response to public comments, allow technologies to qualify under those criteria, and implement payments for any qualified technologies in a budget neutral manner. This is because making the special payments in a budget neutral manner requires an adjustment to the standardized amounts (which must be published in final by August 1 each year).

Representatives of new technologies seeking to qualify for special payments under this provision for FY 2003 should proceed with their application by contacting us at the telephone numbers listed in the ''For Further Information Contact'' section of this preamble. As indicated previously, a final rule containing the specific qualifying criteria and payment mechanism will be published shortly.

This final rule also responds to public comments on, and finalizes implementation of, provisions of Public Law 106–113 that relate to Medicare payments to hospitals for FY 2001 that were addressed in a separate interim final rule with comment period (HCFA–1131–IFC), published in the **Federal Register** on August 1, 2000 (65 FR 47026).

Lastly, this final rule responds to public comments on, and finalizes implementation of, other provisions of Public Law 106–554 that relate to Medicare payments to hospitals effective prior to October 1, 2001 (that is, for FY 2001 or for the period between April l, 2001 and September 30, 2001) that were addressed in a separate interim final rule with comment period (HCFA–1178–IFC), published in the **Federal Register** on June 13, 2001 (66 FR 32172).

In summary, this final rule responds to public comments on, and finalizes, three documents published in the **Federal Register:** The August 1, 2000 interim final rule with comment period, the May 4, 2001 proposed rule (HCFA–1158–P), and the June 13, 2001 interim final rule with comment period, as discussed below.

The charts below specify the effective dates of the various provisions of Public Law 106–113 and Public Law 106–554.

EFFECTIVE DATES OF THE PROVISIONS OF PUBLIC LAW 106–113 INCLUDED IN THIS FINAL RULE

| Section No. | Title | Effective date |
|---|---|---|
| 111 | Indirect Medical Education Adjustment Formula | 10/01/1999. |
| 121 | Wage Adjustment to Caps on Target Amounts for Excluded Hospitals and Units. | 10/01/1999. |
| 152(a) | Reclassified Hospitals in Certain Designated Counties | 10/01/1999. |
| 153 | Calculation of Wage Index for Hattiesburg, Mississippi | 10/01/1999. |
| 154 | Calculation of Wage Index for Allentown-Bethlehem-Easton, Pennsylvania MSA. | 10/01/1999. |
| 312 | Initial Residency Period for Child Neurology Residency Programs. | 7/01/2000, for residency programs that began before, on, or after 11/29/1999. |
| 401(a) | Reclassification of Certain Urban Hospitals to Rural | 01/01/2000. |
| 401(b)(2) | Application of Reclassifications under Section 401(a) to Critical Access Hospitals. | 01/01/2000. |
| 403(a) | Length of Stay Restrictions on Inpatient Stays in Critical Access Hospitals. | 11/29/1999. |
| 403(b) | Qualifications of For-Profit Hospitals for Critical Access Hospital Status. | 11/29/1999. |
| 403(c) | Qualification of Closed Hospitals or Hospitals Downsized to Health Clinics for Critical Access Hospital Designation. | 11/29/1999 for hospitals that closed after 11/29/1989; 11/29/1999 for hospitals that downsized to health clinics. |
| 403(e) | Elimination of Medicare Part B Deductible and Coinsurance for Clinical Diagnostic Laboratory Tests Furnished in Critical Access Hospitals. | 11/29/1999. |
| 403(f) | Provisions on Swing-Beds in Critical Access Hospitals | 11/29/1999. |
| 404 | Extension of Medicare-Dependent, Small Rural Hospital Program. | 10/01/2002 through 9/30/2006. |
| 407(a) | Residents on Approved Leaves of Absence—GME and IME. | 11/29/1999. |
| 407(b) | Expansion of Number of Unweighted Residents in Rural Hospitals—GME and IME. | 04/01/2000. |
| 407(c) | Urban Hospitals with Rural Training Tracks or Integrated Rural Tracks—GME and IME. | 04/01/2000. |
| 407(d) | Residents Training at Certain Veterans Hospitals—GME and IME. | 10/01/1997 |
| 408(a) | Swing Beds for Skilled Nursing Facility Level of Care Patients. | 07/01/1998 through the end of the facility's third cost reporting period after this date. |
| 408(b) | Elimination of Constraints on Length of Stay in Swing Beds in Rural Hospitals. | 07/01/1998 through the end of the facility's third cost reporting period after this date. |
| 541 | Additional Payments to Hospitals for Approved Nursing and Allied Health Education to Reflect Utilization of Medicare+Choice Enrollees. | 01/01/2000. |

EFFECTIVE DATES OF THE PROVISIONS OF PUBLIC LAW 106–113 INCLUDED IN THIS FINAL RULE

| Section No. | Title | Effective date |
|---|---|---|
| 201 | Clarification of No Beneficiary Cost-Sharing for Clinical Diagnostic Laboratory Tests Furnished by Critical Access Hospitals. | 11/29/1999. |
| 202 | Assistance with Fee Schedule Payment for Professional Services under All-Inclusive Rate. | 07/01/2001. |
| 211 | Threshold for Disproportionate Share Hospitals | 04/01/2001. |

EFFECTIVE DATES OF THE PROVISIONS OF PUBLIC LAW 106–113 INCLUDED IN THIS FINAL RULE—Continued

| Section No. | Title | Effective date |
|---|---|---|
| 212 | Option to Base Eligibility for Medicare-Dependent, Small Rural Hospital Program on Discharges during Two of the Three Most Recently Audited Cost Reporting Periods. | 04/01/2001. |
| 213 | Extension of Option to use Rebased Target Amounts to All Sole Community Hospitals. | 10/01/2000. |
| 301 | Revision of Acute Care Hospital Payment Update for 2001 | 04/01/2001. |
| 302 | Additional Modification in Transition for Indirect Medical Education Adjustment. | 04/01/2001. |
| 303 | Decrease in Reductions for Disproportionate Share Hospitals | 04/01/2001. |
| 304(a) | Three-Year Wage Index Reclassifications; Use of 3 Years of Wage Data for Evaluating Reclassifications. | 10/01/2001. |
| 304(b) | Statewide Wage Index for Reclassifications | 10/01/2001 for reclassification beginning 10/01/2002. |
| 304(c) | Collection of Occupational Case Mix Data | 09/30/2003 for application 10/1/2004. |
| 306 | Payment for Inpatient Services of Psychiatric Hospitals | 10/01/2000. |
| 307 | Payment for Inpatient Services of Long-Term Care Hospitals | 10/01/2000. |
| 511 | Increase in Floor for Payments for Direct Costs of Graduate Medical Education. | 10/01/2001. |
| 512 | Change in Distribution Formula for Medicare+Choice-Related Nursing and Allied Health Education Costs. | 01/01/2001. |
| 541 | Increase in Reimbursement for Bad Debt | 10/01/2000. |

*B. Summary of the Provisions of the May 4, 2001 Proposed Rule*

On May 4, 2001, we published a proposed rule in the **Federal Register** (66 FR 22646) that set forth proposed changes to the Medicare hospital inpatient prospective payment system for operating and capital-related costs for FY 2002. We set forth proposed changes to the amounts and factors used in determining the rates for these costs. In addition, we proposed changes relating to payments for GME costs and payments to excluded hospitals and units, SCHs, and CAHs.

The following is a summary of the major changes that we proposed and the issues we addressed in the May 4, 2001 proposed rule:

1. Changes to the DRG Reclassifications and Recalibrations of Relative Weights

As required by section 1886(d)(4)(C) of the Act, we proposed annual adjustments to the DRG classifications and relative weights. Based on analyses of Medicare claims data, we proposed to establish a number of new DRGs and make changes to the designation of diagnosis and procedure codes under other existing DRGs for FY 2002.

We also addressed the provisions of section 533 of Public Law 106–544 regarding development of a mechanism for increased payment for new medical services and technologies and the required report to Congress on expeditiously introducing new medical services and technology into the DRGs.

2. Changes to the Hospital Wage Index

We proposed to use wage data taken from hospitals' FY 1998 cost reports in the calculation of the FY 2002 wage index. We also proposed to implement the third year of the phaseout of wage costs related to GME or Part A certified registered nurse anesthetists (CRNA) from the FY 2002 wage index calculation.

We proposed several changes to the wage index methodology that would apply in calculating the FY 2003 wage index, and addressed new procedures for requesting wage data corrections and a modification of the process and timetable for updating the wage index.

- We also discussed the collection of hospital occupational mix data as required by section 304(c) of Public Law 106–554.
- In addition, we discussed revisions to the wage index based on hospital redesignations and reclassifications for purposes of the wage index, including changes to reflect the provisions of sections 304(a) and (b) of Public Law 106–554 relating to 3-year wage index reclassifications by the MGCRB, the use of 3 years of wage data for evaluating reclassification requests for FYs 2003 and later, and the application of a statewide wage index for reclassifications beginning in FY 2003.

3. Other Decisions and Changes to the Prospective Payment System for Inpatient Operating and Graduate Medical Education Costs

We discussed several provisions of the regulations in 42 CFR parts 412 and 413 and set forth certain proposed changes concerning SCHs; rural referral centers; changes relating to the IME adjustment as a result of section 302 of Public Law 106–554; changes relating to the DSH adjustment as a result of section 303 of Public Law 106–554; the establishment of policies relating to the 3-year application of wage index reclassifications by the MGCRB, the use of 3 years of wage data in evaluating reclassification requests to the MGCRB for FYs 2003 and later, and the use of a statewide wage index for reclassifications beginning in FY 2003, as required by sections 304(a) and (b) of Public Law 106–554.

We discussed proposed requirements for qualifying for additional payments for new medical services and technology, as required by section 533(b) of Public Law 106–554.

Lastly, we proposed changes relating to payment for the direct costs of GME, including changes as a result of section 511 of Public Law 106–554.

4. Prospective Payment System for Capital-Related Costs

We proposed payment requirements for capital-related costs, including the special exceptions payment, beginning October 1, 2001.

5. Proposed Changes for Hospitals and Hospital Units Excluded from the Prospective Payment Systems

We discussed the following proposals concerning excluded hospitals and hospital units and CAHs:

- Limits on and adjustments to the proposed target amounts for FY 2002.
- Revision of the methodology for wage neutralizing the hospital-specific target amounts using preclassified wage data.
- Updated caps for new excluded hospitals and units as well as changes

in the effective date of classifications of excluded hospitals and units.

• The prospective payment system for inpatient rehabilitation hospitals and units.

• Payments to CAHs, including exclusion from the payment window requirements; the availability of CRNA pass-through payments; payment for emergency room on-call physicians; treatment of ambulance services; the use of certain qualified practitioners for preanesthesia and postanesthesia evaluations; and clarification of location requirements for CAHs.

6. Determining Prospective Payment Operating and Capital Rates and Rate-of-Increase Limits

In the Addendum to the proposed rule, we set forth proposed changes to the amounts and factors for determining the FY 2002 prospective payment rates for operating costs and capital-related costs. We also proposed threshold amounts for outlier cases. In addition, we proposed update factors for determining the rate-of-increase limits for cost reporting periods beginning in FY 2002 for hospitals and hospital units excluded from the prospective payment system.

7. Impact Analysis

In Appendix A, we set forth an analysis of the impact of the proposed changes on affected entities.

8. Capital Acquisition Model

In Appendix B of the proposed rule, we set forth the technical appendix on the proposed FY 2002 capital cost model.

9. Report to Congress on the Update Factor for Hospitals under the Prospective Payment System and Hospitals and Units Excluded From the Prospective Payment System

In Appendix C of the proposed rule, as required by section 1886(e)(3) of the Act, we set forth our report to Congress on our initial estimate of a recommended update factor for FY 2002 for payments to hospitals included in the prospective payment systems, and hospitals excluded from the prospective payment systems.

10. Recommendation of Update Factor for Hospital Inpatient Operating Costs

In Appendix D, as required by sections 1886(e)(4) and (e)(5) of the Act, we included our recommendation of the appropriate percentage change for FY 2002 for the following:

• Large urban area and other area average standardized amounts (and hospital-specific rates applicable to SCHs and Medicare-dependent, small rural hospitals) for hospital inpatient services paid for under the prospective payment system for operating costs.

• Target rate-of-increase limits to the allowable operating costs of hospital inpatient services furnished by hospitals and hospital units excluded from the prospective payment system.

11. Discussion of Medicare Payment Advisory Commission Recommendations

In the proposed rule, we discussed recommendations by the Medicare Payment Advisory Commission (MedPAC) concerning hospital inpatient payment policies and presented our responses to those recommendations. Under section 1805(b) of the Act, MedPAC is required to submit a report to Congress, not later than March 1 of each year, that reviews and makes recommendations on Medicare payment policies. We respond to those recommendations in section VII. of this preamble. For further information relating specifically to the MedPAC March 1 report or to obtain a copy of the report, contact MedPAC at (202) 653–7220 or visit MedPAC's website at: *www.medpac.gov.*

12. Public Comments Received in Response to the May 4, 2001 Proposed Rule

We received a total of 232 timely items of correspondence containing multiple comments on the proposed rule. Major issues addressed by the commenters included: additional payments for new medical services and technologies, geographic reclassifications of hospitals for purposes of the wage index, DRG reclassifications, payments for GME, and payments to CAHs.

Summaries of the public comments received and our responses to those comments are set forth below under the appropriate heading, with the exception of comments and responses pertaining to specific payments for new technologies under section 533 of Public Law 106–554. As described previously, this provision will be implemented through a separate final rule.

*C. Summary of the Provisions of the August 1, 2000 Interim Final Rule with Comment Period*

On August 1, 2000, we published in the **Federal Register** (65 FR 47026) an interim final rule with comment period that implemented, or conformed the regulations to, certain statutory provisions relating to Medicare payments to hospitals for inpatient services that were contained in Public Law 106–113, that were effective for FY 2000. The following is a summary of the policy changes we implemented as a result of Public Law 106–113:

1. Changes Relating to Payments for Operating Costs Under the Hospital Inpatient Prospective Payment System

• *Reclassification of Certain Counties.* We implemented the provisions of section 152(a) of Public Law 106–113 that reclassified hospitals in certain designated counties for purposes of making payments to affected hospitals under section 1886(d) of the Act for FY 2000. The counties affected by this provision are identified under section III. of this preamble.

• *Wage Index.* We implemented sections 153 and 154 of Public Law 106–113 that contain provisions affecting the wage indexes of specific Metropolitan Statistical Areas (MSA). Under section 153, the Hattiesburg, Mississippi FY 2000 wage index was calculated including wage data from Wesley Medical Center. Under section 154, the Allentown-Bethlehem-Easton, Pennsylvania MSA FY 2000 wage index was calculated including wage data for Lehigh Valley Hospital.

• *Reclassification of Certain Urban Hospitals as Rural Hospitals.* We implemented section 401 of Public Law 106–113 which directed the Secretary to treat certain hospitals located in urban areas as being located in rural areas of their State if the hospital meets statutory criteria and files an application with HCFA. This provision was effective on January 1, 2000.

• *IME Adjustment.* We implemented section 111 of Public Law 106–113 which provided for an additional payment to teaching hospitals equal to the additional amount the hospitals would have been paid for FY 2000 if the IME adjustment formula (which reflects the higher indirect operating costs associated with GME) for FY 2000 had remained the same as for FY 1999.

• *Extension of the MDH Provision.* We implemented section 404 of Public Law 106–113 which extended the MDH program and its current payment methodology for an additional 5 years, from FY 2002 through FY 2006.

2. Additional Changes Relating to Direct GME and IME

• *Initial Residency Period for Child Neurology Residency Programs.* We implemented section 312 of Public Law 106–113 which provides that in determining the number of residents for purposes of GME and IME payments, the period of board eligibility and the initial residency period for child neurology is the period of board

eligibility for pediatrics plus 2 years. This provision is effective on or after July 1, 2000, for residency programs that began before, on, or after November 29, 1999.

• *Residents on Approved Leaves of Absence.* We implemented section 407(a) of Public Law 106–113 which provides that, for purposes of determining a hospital's full-time equivalent (FTE) cap for direct GME payments and the IME adjustment, a hospital may count an individual to the extent that the individual would have been counted as a primary care resident for purposes of the FTE cap but for the fact that the individual was on maternity or disability leave or a similar approved leave of absence. The provision relating to direct GME was effective with cost reporting periods beginning on or after November 29, 1999. The provision relating to the IME adjustment applied to discharges occurring in cost reporting periods beginning on or after November 29, 1999.

• *Expansion of Number of Unweighted Residents in Rural Hospitals.* We implemented section 407(b) of Public Law 106–113 which provides that a rural hospital's resident FTE count for direct GME and IME may not exceed 130 percent of the number of unweighted residents that the rural hospital counted in its most recent cost reporting period ending on or before December 31, 1996. The provision relating to direct GME applied to cost reporting periods beginning on or after April 1, 2000. The provision relating to the IME adjustment applied to discharges occurring on or after April 1, 2000.

• *Urban Hospitals with Rural Training Tracks or Integrated Rural Tracks.* We implemented section 407(c) of Public Law 106–113 which allows an urban hospital that establishes separately accredited approved medical residency training programs (or rural training tracks) in a rural area or has an accredited training program with an integrated rural track to receive an FTE cap adjustment for purposes of direct GME and IME. The provision was effective with cost reporting periods beginning on or after April 1, 2000, for direct GME, and with discharges occurring on or after April 1, 2000, for IME.

• *Residents Training at Certain Veterans Affairs Hospitals.* We implemented section 407(d) of PublicLaw 106–113 which provides that a non-Veterans Affairs (VA) hospital may receive a temporary adjustment to its FTE cap to reflect residents who were training at a VA hospital and were transferred on or after January 1, 1997, and before July 31, 1998, to the non-VA hospital because the program at the VA hospital would lose its accreditation by the Accreditation Council on Graduate Medical Education if the residents continued to train at the facility. This provision applies as if it was included in the enactment of Public Law 105–33, that is, for direct GME, with cost reporting periods beginning on or after October 1, 1997, and for IME, for discharges occurring on or after October 1, 1997. If a hospital is owed payments as a result of this provision, payments must be made immediately.

3. Payments for Nursing and Allied Health Education: Utilization of Medicare+Choice Enrollees

We implemented section 541 of Public Law 106–113 which provides an additional payment to hospitals that receive payments under section 1861(v) of the Act for approved nursing and allied health education programs associated with services to Medicare+Choice enrollees. This provision is effective for portions of cost reporting periods occurring on or after January 1, 2000.

4. Changes Relating to Hospitals and Hospital Units Excluded From the Prospective Payment System

We implemented section 121 of Public Law 106–113 which amended section 1886(b)(3)(H) of the Act to direct the Secretary to provide for an appropriate wage adjustment to the caps on the target amounts for psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals for cost reporting periods beginning on or after October 1, 1999.

5. Changes Relating to CAHs

We implemented—

• Section 401(b) of Public Law 106–113, which contained conforming changes to incorporate the reclassifications made by section 401(a) of Public Law 106–113 to the CAH statute (section 1820(c)(2)(B)(i) of the Act). This provision is effective beginning on January 1, 2000.

• Section 403(a) of Public Law 106–113, which deleted the 96-hour length of stay restriction on inpatient care in a CAH and authorized a period of stay that does not exceed, on an annual, average basis, 96 hours per patient. This provision is effective beginning on November 29, 1999.

• Section 403(b) of Public Law 106–113, which allows for-profit hospitals to qualify for CAH status. This provision is effective beginning on November 29, 1999.

• Section 403(c) of Public Law 106–113, which allows hospitals that have closed within 10 years prior to November 29, 1999, or hospitals that downsized to a health clinic or health center, to be designated as CAHs if they satisfy the established criteria for designation, other than the requirement for existing hospital status.

• Section 403(e) of Public Law 106–113, which eliminated the Medicare Part B deductible and coinsurance for clinical diagnostic laboratory tests furnished by a CAH on an outpatient basis. This provision is effective with respect to services furnished on or afterNovember 29, 1999.

• Section 403(f) of Public Law 106–113, entitled ''Participation in Swing Bed Program,'' which amended sections 1883(a)(1) and (c) of the Act.

6. Changes Relating Hospital to Swing Bed Program

We implemented section 408(a) of Public Law 106–113 which eliminated the requirement for a hospital to obtain a certification of need to use acute care beds as swing beds for skilled nursing facility (SNF) level of care patients; and section 408(b) of Public Law 106–113 which eliminates constraints on the length of stay in swing beds for rural hospitals with 50 to 100 beds. These provisions were effective on the first day after the expiration of the transition period for prospective payments for covered SNF services under the Medicare program (that is, at the end of the transition period for the SNF prospective payments system that began with the facility's first cost reporting period beginning on or after July 1, 1998 and extend through the end of the facility's third cost reporting period after this date).

We received a total of eight timely items of correspondence containing multiple comments on the August 1, 2000 interim final rule with comment period. Summaries of the public comments received and our responses to those comments are set forth below under the appropriate section headings of this final rule.

*D. Summary of the Provisions of the June 13, 2001 Interim Final Rule With Comment Period*

On June 13, 2001, we published an interim final rule with comment period in the **Federal Register** (66 FR 32172) that implemented changes to the Act affecting Medicare payments to hospitals for inpatient services that were made by Public Law 106–554. Some of these changes were effective before the December 21, 2000 date of enactment of Public Law 106–554, on April 1, 2001,

or on July 1, 2001. The changes, on which we requested public comment, are as follows:

1. Changes Relating to Payments for Operating Costs Under the Hospital Inpatient Prospective Payment System

• *Treatment of Rural and Small Urban Disproportionate Share Hospitals (DSHs)* . We implemented the provisions of section 211 of Public Law 106–554 which lowered thresholds by which certain classes of hospitals qualify for DSH payments, with respect to discharges occurring on or after April 1, 2001.

• *Decrease in Reductions for DSH Payments*. We implemented section 303 of Public Law 106–554 which modified the previous reduction in the DSH payment to be 2 percent in FY 2001 and 3 percent in FY 2002.

• *Medicare-Dependent, Small Rural Hospitals (MDHs)*. We implemented section 212 of Public Law 106–554 which provided an option to base eligibility for MDH status on discharges during two of the three most recently audited cost reporting periods, effective with cost reporting periods beginning on or after April 1, 2001.

• *Revision of Prospective Payment System Standardized Amounts.* We implemented section 301 of Public Law 106–554 which revised the update factor increase for the inpatient prospective payment rates for FY 2001.

• *Indirect Medical Education Adjustment (IME).* We implemented section 302 of Public Law 106–554 which provided that for the purposes of making the IME payment for discharges occurring on or after April 1, 2001 and before October 1, 2001, the adjustment will be determined as if the adjustment equaled a 6.75 percent increase in payment for every 10 percent increase in the resident-to-bed ratio, rather than a 6.25 percent increase.

• *SCHs*. We implemented section 213 of Public Law 106–554 which further extended the 1996 rebasing option, for hospital cost reporting periods beginning October 1, 2000, to all SCHs and provides that this extension is effective as if it had been included in section 405 of Public Law 106–113.

2. Payments for Nursing and Allied Health Education: Utilization of Medicare+Choice Enrollees

We implemented section 512 of Public Law 106–554 which revised the formula for determining the additional payment amounts to hospitals for Medicare+Choice nursing and allied health education costs to specifically account for each hospital's Medicare+Choice utilization.

3. Changes Relating to Payments for Capital-Related Costs Under the Hospital Inpatient Prospective Payment System

As a result of implementing section 301 of Public Law 106–554, which provided increased inpatient operating payment rates, we recalculated the unified outlier threshold for inpatient operating and inpatient capital-related costs. Therefore, we revised the capital outlier offset which also required us to revise the capital-related rates.

4. Changes Relating to Hospitals and Hospital Units Excluded From the Prospective Payment System

• *Increase in the Incentive Payment for Excluded Psychiatric Hospitals and Units*. We implemented section 306 of Public Law 106–554, which provided that for cost reporting periods beginning on or after October 1, 2000, for psychiatric hospitals and units, if the allowable net inpatient operating costs do not exceed the hospital's ceiling, payment is the lower of: (1) net inpatient operating costs plus 15 percent of the difference between inpatient operating costs and the ceiling; or, (2) net inpatient costs plus 3 percent of the ceiling.

• *Increase in the Wage Adjusted 75th Percentile Cap on the Target Amounts for Long-Term Care Hospitals*. We implemented section 307(a) of Public Law 106–554, which provided a 2-percent increase to the wage-adjusted 75th percentile cap on the target amount for long-term care hospitals, effective for cost reporting periods beginning during FY 2001.

• *Increase in the Target Amounts for Long-Term Care Hospitals*. We implemented section 307(a) Public Law 106–554, which provided a 25 percent increase to the target amounts for long-term care hospitals for cost reporting periods beginning in FY 2001, up to the cap on target amounts.

5. Changes Relating to CAHs

• *Elimination of Coinsurance for Clinical Diagnostic Laboratory Tests Furnished by a CAH*. We implemented section 201(a) of Public Law 106–554, which amended section 1834(g) of the Act to state that there will be no collection of coinsurance, deductible, copayments, or any other type of cost sharing from Medicare beneficiaries with respect to outpatient clinical diagnostic laboratory services furnished as outpatient CAH services and that those services will be paid for on a reasonable cost basis.

• *Assistance with Fee Schedule Payment for Professional Services under All-Inclusive Rate*. We implemented section 202 of Public Law 106–554, which amended section 1834(g)(2)(B) of the Act to provide that when a CAH elects to be paid for Medicare outpatient services under the reasonable costs for facility services plus fee schedule amounts for professional services method, Medicare will pay 115 percent of the amount it otherwise pays for the professional services.

• *Condition of Participation with Hospital Requirements at the Time of Application for CAH Designation (§ 485.612)*. We implemented a conforming change to correct § 485.612 to reflect that certain entities are not required to have a provider agreement prior to CAH designation.

6. Other Inpatient Costs

• *Increase in Reimbursement for Bad Debts.* We implemented section 541 of Public Law 106–554 which provided a 30 percent decrease of allowable hospital bad debt reimbursement for cost reporting periods beginning during FY 2001 and all subsequent fiscal years. This section modified section 4451 of Public Law 105–33 that reduced the total allowable bad debt reimbursement for hospitals by 45 percent.

We received a total of 13 timely pieces of correspondence containing comments on the June 13, 2001 interim final rule with comment period. A summary of these public comments and our responses to them are set forth under sections IV. and VI. of this final rule.

## II. Changes to DRG Classifications and Relative Weights

### *A. Background*

Under the prospective payment system, we pay for inpatient hospital services on a rate per discharge basis that varies according to the DRG to which a beneficiary's stay is assigned. The formula used to calculate payment for a specific case multiplies an individual hospital's payment rate per case by the weight of the DRG to which the case is assigned. Each DRG weight represents the average resources required to care for cases in that particular DRG relative to the average resources used to treat cases in all DRGS.

Congress recognized that it would be necessary to recalculate the DRG relative weights periodically to account for changes in resource consumption. Accordingly, section 1886(d)(4)(C) of the Act requires that the Secretary adjust the DRG classifications and relative weights at least annually. These adjustments are made to reflect changes

in treatment patterns, technology, and any other factors that may change the relative use of hospital resources. Changes to the DRG classification system and the recalibration of the DRG weights for discharges occurring on or after October 1, 2001 are discussed below.

*B. DRG Reclassification*

1. General

Cases are classified into DRGs for payment under the prospective payment system based on the principal diagnosis, up to eight additional diagnoses, and up to six procedures performed during the stay, as well as age, sex, and discharge status of the patient. The diagnosis and procedure information is reported by the hospital using codes from the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD–9–CM). Medicare fiscal intermediaries enter the information into their claims processing systems and subject it to a series of automated screens called the Medicare Code Editor (MCE). These screens are designed to identify cases that require further review before classification into a DRG.

After screening through the MCE and any further development of the claims, cases are classified into the appropriate DRG by the Medicare GROUPER software program. The GROUPER program was developed as a means of classifying each case into a DRG on the basis of the diagnosis and procedure codes and demographic information (that is, sex, age, and discharge status). It is used both to classify past cases in order to measure relative hospital resource consumption to establish the DRG weights and to classify current cases for purposes of determining payment. The records for all Medicare hospital inpatient discharges are maintained in the Medicare Provider Analysis and Review (MedPAR) file. The data in this file are used to evaluate possible DRG classification changes and to recalibrate the DRG weights.

In version 18 of the GROUPER (used for FY 2001), cases are assigned to one of 499 DRGs (including one DRG (469) for a diagnosis that is invalid as a discharge diagnosis and one DRG (470) for ungroupable diagnoses) in 25 major diagnostic categories (MDCs). Most MDCs are based on a particular organ system of the body. For example, MDC 6 is Diseases and Disorders of the Digestive System. However, some MDCs are not constructed on this basis because they involve multiple organ systems (for example, MDC 22 (Burns)).

In general, cases are assigned to an MDC, based on the principal diagnosis, before assignment to a DRG. However, there are six DRGs to which cases are directly assigned on the basis of procedure codes. These are the DRGs for heart, liver, bone marrow, and lung transplants (DRGs 103, 480, 481, and 495, respectively) and the two DRGs for tracheostomies (DRGs 482 and 483). Cases are assigned to these DRGs before classification to an MDC.

Within most MDCs, cases are then divided into surgical DRGs and medical DRGs. Surgical DRGs are based on a hierarchy that orders individual procedures or groups of procedures by resource intensity. Medical DRGs generally are differentiated on the basis of diagnosis and age. Some surgical and medical DRGs are further differentiated based on the presence or absence of complications or comorbidities (CC).

Generally, the GROUPER does not consider other procedures. That is, nonsurgical procedures or minor surgical procedures generally not performed in an operating room are not listed as operating room (OR) procedures in the GROUPER decision tables. However, there are a few non-OR procedures that do affect DRG assignment for certain principal diagnoses, such as extracorporeal shock wave lithotripsy for patients with a principal diagnosis of urinary stones.

We proposed numerous changes to the DRG classification system for FY 2002. The proposed changes, the public comments we received concerning them, and the final DRG changes are set forth below. Unless otherwise noted, the changes we are implementing will be effective in the revised GROUPER software (Version 19.0) to be implemented for discharges on or after October 1, 2001. Unless noted otherwise, we are relying on the data analysis in the proposed rule for the changes discussed here.

Chart 1 lists the changes we are making by adding new DRGs or removing old DRGs. Chart 2 summarizes the changes we are making with respect to the reassignment of procedure codes. Chart 3 presents the changes we are making to the titles of existing DRGs.

In Chart 2 of the proposed rule, several procedure codes were erroneously included in the ''Removed from DRG'' column of the chart (66 FR 22650). The 11 affected codes are 37.21, 37.22, 37.23, 37.26, 88.52, 88.53, 88.54, 88.55, 88.56, 88.57, and 88.58. Inclusion of these codes in this chart made it appear as if the codes were being deleted from DRG 104. In fact, they are being additionally assigned to DRG 514. We have corrected Chart 2 in this final rule.

CHART 1.—SUMMARY OF CHANGES IN DRG ASSIGNMENTS

| Diagnosis related groups (DRGs) | Added as new | Removed |
|---|---|---|
| Pre-MDC: | | |
| DRG 512 (Simultaneous Pancreas/Kidney Transplant) | X | |
| DRG 513 (Pancreas Transplants) | X | |
| MDC 5 (Diseases and Disorders of the Circulatory System): | | |
| DRG 112 (Percutaneous Cardiovascular Procedures) | | X |
| DRG 514 (Cardiac Defibrillator Implant with Cardiac Catheterization) | X | |
| DRG 515 (Cardiac Defibrillator Implant without Cardiac Catheterization) | X | |
| DRG 516 (Percutaneous Cardiovascular Procedures with Acute Myocardial Infarction (AMI)) | X | |
| DRG 517 (Percutaneous Cardiovascular Procedures without AMI, with Coronary Artery Stent Implant | X | |
| DRG 518 (Percutaneous Cardiovascular Procedures without AMI, without Coronary Artery Stent Implant | X | |
| MDC 8 (Diseases and Disorders of the Musculoskeletal System and Connective Tissue): | | |
| DRG 519 (Cervical Spinal Fusion with CC) | X | |
| DRG 520 (Cervical Spinal Fusion without CC) | X | |
| MDC 20 (Alcohol/Drug Use and Alcohol/Drug-Induced Organic Mental Disorders): | | |
| DRG 434 (Alcohol/Drug Abuse or Dependency, Detoxification or Other Symptomatic Treatment with CC) | | X |
| DRG 435 (Alcohol/Drug Abuse or Dependency, Detoxification or Other Symptomatic Treatment without CC) | | X |
| DRG 436 (Alcohol/Drug Dependence with Rehabilitation Therapy) | | X |
| DRG 437 (Alcohol/Drug Dependence, Combined Rehabilitation and Detoxification Therapy) | | X |
| DRG 521 (Alcohol/Drug Abuse or Dependence with CC) | X | |

CHART 1.—SUMMARY OF CHANGES IN DRG ASSIGNMENTS—Continued

| Diagnosis related groups (DRGs) | Added as new | Removed |
|---|---|---|
| DRG 522 (Alcohol/Drug Abuse or Dependence without CC, with Rehabilitation Therapy) | X | |
| DRG 523 (Alcohol/Drug Abuse or Dependence without CC, without Rehabilitation Therapy) | X | |

CHART 2.—SUMMARY OF ASSIGNMENT OR REASSIGNMENT OF DIAGNOSIS OR PROCEDURE CODES IN EXISTING DRGS

| Diagnosis/procedure codes | Removed from DRG | Reassigned to DRG |
|---|---|---|
| MDC 5 (Diseases and Disorders of the CirculatorySystem) | | |
| Principal Diagnosis Code: | | |
| 410.01 Acute myocardial infarction of anterolateral wall, initial episode of care | 116 | 516. |
| 410.11 Acute myocardial infarction of other anterior wall, initial episode of care | 116 | 516. |
| 410.21 Acute myocardial infarction of inferolateral wall, initial episode of care | 116 | 516. |
| 410.31 Acute myocardial infarction of inferoposterior wall, initial episode of care | 116 | 516. |
| 410.41 Acute myocardial infarction of other inferior wall, initial episode of care | 116 | 516. |
| 410.51 Acute myocardial infarction of other lateral wall, initial episode of care | 116 | 516. |
| 410.61 True posterior wall infarction, initial episode of care | 116 | 516. |
| 410.71 Subendocardial infarction, initial episode of care | 116 | 516. |
| 410.81 Acute myocardial infarction of other specified sites, initial episode of care | 116 | 516. |
| 410.91 Acute myocardial infarction of unspecified site, initial episode of care | 116 | 516 |
| Procedure Codes: | | |
| 37.94 Implantation or replacement of automatic cardioverter/defibrillation, total system (AICD) | 104, 105 | 514, 515. |
| 37.95 Implantation of automatic cardioverter/defibrillator lead(s) only | 104, 105 | 514, 515. |
| 37.96 Implantation of automatic cardioverter/defibrillator pulse generator only | 104, 105 | 514, 515. |
| 37.97 Raplacement of automatic cardioverter/defibrilator lead(s) only; | 104, 105 | 514, 515. |
| 37.98 Replacement of automatic cardioverter/defibrillator pulse generator only | 104, 105 | 514, 515. |
| Operating Room Procedures: | | |
| 35.96 Percutaneous valvuloplasty | 112, 116 | 516, 517, 518. |
| 36.01 Single vessel percutaneous transluminal coronary angioplasty (PTCA) or coronary atherectomy without mention of thrombolytic agent. | 112, 116 | 516, 517, 518. |
| 36.02 Single vessel percutaneous transluminal coronary angioplasty (PTCA) or coronary atherectomy with mention of thrombolytic agent. | 112, 116 | 516, 517, 518. |
| 36.05 Multiple vessel percutaneous transluminal coronary angioplasty (PTCA) or coronary atherectomy performed during the same operation, with or without mention of thrombolytic agent. | 112, 116 | 516, 517, 518. |
| 36.09 Other removal of coronary artery obstruction | 112, 116 | 516, 517, 518. |
| 37.34 Catheter ablation of lesion or tissues of heart | 112, 116 | 516, 517, 518. |
| 92.27 Implantation or insertion of radioactive elements | non-OR in MDC–5 | 517 |
| Nonoperating Room Procedures: | | |
| 36.06 Insertion of coronary artery stent(s) | 116 | 517. |
| 37.26 Cardiac electrophysiologic stimulation and recording studies | 112 | 514, 516, 517, 518. |
| 37.27 Cardiac mapping | 112 | 516, 517, 518. |
| MDC 8 (Diseases and Disorders of the Musculoskeletal System and Connective Tissue) | | |
| Procedure Codes: | | |
| 81.02 Other cervical fusion, anterior technique | 497, 498 | 519, 520. |
| 81.03 Other cervical fusion, posterior technique | 497, 498 | 519, 520. |
| MDC 15 (Newborns and Other Neonates with Conditions Originating in the Perinatal Period) | | |
| Diagnosis Codes: | | |
| 770.7 Chronic respiratory disease arising in the perinatal period | 387, 389 | 92, 93. |
| 773.0 Hemolytic disease due to RH isoimmunization | 387, 389 | 390. |
| 773.1 Hemolytic disease due to ABO isoimmunization | 387, 389 | 390. |
| Secondary Diagnosis Codes: | | |
| 478.1 Other diseases of nasal cavity and sinuses | 390 | 391. |
| 520.6 Disturbances in tooth eruption | 390 | 391. |
| 623.8 Other specified noninflammatory disorders of vagina | 390 | 391. |
| 709.00 Dyschromia, unspecified | 390 | 391. |
| 709.01 Vitiglio | 390 | 391. |
| 709.09 Dyschromia, Other | 390 | 391. |
| 744.1 Accessory Auricle | 390 | 391. |
| 754.61 Congenital pes planus | 390 | 391. |
| 757.33 Congenital pigmentary anomalies of skin | 390 | 391. |
| 757.39 Other specified anomaly of skin | 390 | 391. |
| 764.08 ''Light for dates'' without mention of fetal malnutrition, 2,000–2,499 grams | 390 | 391. |
| 764.98 Fetal growth retardation, unspecified, 2,000–2,499 grams | 390 | 391. |
| 772.6 Cutaneous hemorrhage | 390 | 391. |
| 779.3 Feeding problems in newborns | 390 | 391 |
| 794.15 Abnormal and auditory function studies | 390 | 391. |

CHART 2.—SUMMARY OF ASSIGNMENT OR REASSIGNMENT OF DIAGNOSIS OR PROCEDURE CODES IN EXISTING DRGS—Continued

| Diagnosis/procedure codes | Removed from DRG | Reassigned to DRG |
|---|---|---|
| 796.4 Other abnormal clinical findings | 390 | 391. |
| V20.2 Routine infant or child health check | 390 | 391. |
| V72.1 Examination of ears and hearing | 390 | 391. |

CHART 3.—SUMMARY OF RETITLED DRGS

| MDC | DRG No. | Current name | New name |
|---|---|---|---|
| MDC 5 | DRG 116 | Other Permanent Cardiac Pacemaker Implantation, or PTCA, with Coronary Artery Stent Implant. | Other Cardiac Pacemaker Implantation. |
| MDC 8 | DRG 497 | Spinal Fusion with CC | Spinal Fusion except Cervical with CC. |
| MDC 8 | DRG 498 | Spinal Fusion without CC | Spinal Fusion except Cervical with CC. |

2. MDC 5 (Diseases and Disorders of the Circulatory System)

a. Removal of Defibrillator Cases from DRGs 104 and 105

DRGs 104 (Cardiac Valve & Other Major Cardiothoracic Procedures with Cardiac Catheterization) and 105 (Cardiac Valve & Other Major Cardiothoracic Procedures without Cardiac Catheterization) include the replacement or open repair of one or more of the four heart valves. These valves may be diseased or damaged, resulting in either leakage or restriction of blood flow to the heart, compromising the ability of the heart to pump blood. This procedure requires the use of a heart-lung bypass machine, as the heart must be stilled and opened to repair or replace the valve.

Cardiac defibrillators are implanted to correct episodes of fibrillation (very fast heart rate) caused by malfunction of the conduction mechanism of the heart. Through implanted cardiac leads, the defibrillator mechanism senses changes in heart rhythm. When very fast heart rates occur, the defibrillator produces a burst of electric current through the leads to restore the normal heart rate. An implanted defibrillator constantly monitors heart rhythm. The implantation of this device does not require the use of a heart-lung bypass machine, and would be expected to be very different in terms of resource usage, although both procedures currently group to DRGs 104 and 105.

For the proposed rule, as part of our ongoing review of DRGs, we examined Medicare claims data on DRG 104 and DRG 105. We reviewed 100 percent of the FY 2000 MedPAR file containing hospital bills received through May 31, 2000, for discharges in FY 2000, and found that the average charges across all cases in DRG 104 were $84,060, while the average charges across all cases in DRG 105 were $66,348. Carving out code 37.94 (Implantation or replacement of automatic cardioverter/defibrillator, total system [AICD]) from DRGs 104 and 105 increased those average charges to $91,366 for DRG 104 and $67,323 for DRG 105. We identified 11,021 defibrillator cases in DRG 104 (out of 25,112 total cases), with average charges of $74,719, and 2,434 defibrillator cases in DRG 105 (out of 20,094 total cases), with average charges of $59,267.

We performed additional review on cases containing code 37.95 (Implantation of automatic cardioverter/defibrillator lead(s) only) with code 37.96 (Implantation of automatic cardioverter/defibrillator pulse generator only) and on cases containing code 37.97 (Replacement of automatic cardioverter/defibrillator lead(s) only) with code 37.98 (Replacement of automatic cardioverter/defibrillator pulse generator only). This subgrouping contained only 56 patients. The average charges for the 18 patients in DRG 104 were $58,847. The average charges for the 38 patients in DRG 105 were $54,891.

In the proposed rule, because we believed the defibrillator cases are significantly different from other cases in DRGs 104 and 105, we proposed two new DRGs: DRG 514 (Cardiac Defibrillator Implant with Cardiac Catheterization) and DRG 515 (Cardiac Defibrillator Implant without Cardiac Catheterization).

We also proposed the removal of procedure codes 37.94, 37.95 and 37.96, and 37.97 and 37.98 from DRGs 104 and 105 to form the new DRGs 514 and 515.

We received 58 comments on this proposal.

*Comment:* Many commenters noted that implanted cardioverter defibrillators (ICDs) or AICDs are lifesaving devices that demonstrate state-of-the-art technology for the treatment of cardiac arrhythmias by continuously monitoring, analyzing, and, if needed, restoring a patient's normal heart rhythm.

One commenter described the technology. Similar to the size of a pacemaker, the ICD is placed under the skin of the upper chest. It has the capacity to continuously monitor and analyze a patient's heart rhythm. If the ICD detects an arrhythmia, it can terminate the abnormal rhythm with either a pacemaker function or the delivery of a low-energy electrical shock to restore normal heart rhythm.

*Response:* We agree that ICDs and AICDs are an important addition to the treatment of cardiac disease. The creation of DRGs 514 and 515 is not meant to effect a judgement call about the efficacy or importance of this treatment, but simply to attempt to improve the accuracy of payments within MDC 5, based on the actual charge data associated with these cases.

*Comment:* A vast majority of the commenters expressed concern that payments associated with defibrillators will decrease for FY 2002 as a result of this change, with some commenters noting that an ICD or AICD may cost the hospital between $22,000 and $25,000 per device. The commenters stated that if this is the case, there is a limited amount for the remainder of the hospital care (for example, operating room, supplies, nursing staff salary, and typically a 7-day stay in an intensive care unit). Most commenters called for

additional analysis prior to implementation of DRGs 514 and 515.

*Response:* As we described in the proposed rule and above, DRGs 104 and 105 currently include many different procedures, with a range of costs associated with these different procedures. We proposed to change the assignment of cardiac defibrillators to new DRGs 514 and 515 to more accurately pay for the more expensive procedures remaining in DRGs 104 and 105, as well as to improve the payment accuracy for cardiac defibrillators. In fact, the relative weight of DRG 104 increases from FY 2001 to FY 2002 by 9.1 percent.

*Comment:* Many commenters argued that using hospital charges to determine DRG relative weights can give a distorted picture of the costs of a procedure. The commenters referred to an unspecified national database indicating that the average mark-up of charges over cost for ICDs is lower than the mark-up applied to other components of care. Other commenters referred to the March 2001 Report to Congress by the MedPAC, which, in the context of evaluating available data for setting accurate relative values, stated that hospitals' billed charges ''give a distorted picture of relative costliness across DRGs because they reflect systematic differences among hospitals in the average mark-up of charges over costs'' (page 11).

Several commenters stated that about 66 percent of hospitals are losing $5,000 or more per case for these procedures. These commenters did not understand why payment would be reduced even further in light of those losses.

*Response:* Hospital charges have been the basis for recalibrating the DRG relative weights since FY 1986 (see 50 FR 24372 and 50 FR 35652). To the extent that the mark-up of charges over costs varies from one particular device or procedure to another, the relative weights will be impacted. However, due to the relativity of the DRG weights, a low mark-up associated with one device or procedure will be offset by relatively higher mark-ups associated with another device or procedure, leading to higher relative weights, and thus higher payments, for the latter device or procedure. The prospective payment system is an average-based payment methodology, where hospitals are expected to offset any losses they may incur from any individual or group of cases with payment gains incurred from other cases.

Furthermore, hospital charges are determined by each hospital on an item-by-item basis. It is not possible to account for these individual management decisions in the process of developing a national payment system based on prospectively determined average payment rates.

As demonstrated in the impact analysis in Appendix A to this final rule, hospital payments would rise (prior to the budget neutrality adjustment) by 0.3 percent as a result of all of the DRG changes we are implementing in this final rule, including this change. In addition, we note that the latest analysis by MedPAC indicates the average hospital Medicare inpatient operating margin during FY 1999 (the latest year available) was 12.0 percent (Report to the Congress: Medicare Payment Policy, page 64). Therefore, we believe that hospitals will be able to adequately adjust to these payment changes in both the short and the long term.

*Comment:* One commenter noted that the adjustment to DRGs 104 and 105 as reflected in Table 5, ''List of Diagnosis Related Groups (DRGs), Relative Weighting Factors, Geometric and Arithmetic Mean Length of Stay,'' in the Addendum of the proposed rule, does not reflect the resource consumption as discussed above. The commenter recommended that we increase the relative weights to reflect the resource consumption of DRGs 104 and 105.

*Response:* In this final rule, the relative weight for DRG 104 is 7.8411 for FY 2002, an increase of 9.1 percent from FY 2001. The relative weight for DRG 105 in this final rule is 5.6796 for FY 2002, a 0.4 percent increase from FY 2001. These percentage changes are very similar to the percent change in average charges in DRGs 104 and 105 after removing ICD and AICD charges, as described above. We note that the final relative weight values are based on 100 percent of FY 2000 discharges in the MedPAR database as of March 2001. The analysis using average charges described above was based on an earlier sample of cases; therefore, the percentage changes do not match exactly.

*Comment:* Other commenters noted that this change, and the resulting increase in payments for procedures remaining in DRGs 104 and 105, is a positive step to improving the payment for heart assist devices. However, the commenters were disappointed that we did not take the opportunity to make a similar revision for cases involving mechanical heart assist devices.

*Response:* As described above, removing the ICDs/AICDs from DRGs 104 and 105 will have the net effect of increasing the relative weights for both DRGs, so payment for the remaining cases will increase. We will continue to evaluate our options for improving the accuracy of our payments for heart assist technologies.

After carefully reviewing all of the comments submitted, we have decided to proceed with the creation of two new DRGs to capture cases involving the implantation of cardiac defibrillators. The new DRGs 514 and 515 include principal diagnosis codes and procedure codes as reflected in Chart 4 below:

CHART 4.—COMPOSITION OF NEW DRGS 514 AND 515 IN MDC 5

| Diagnosis and procedure codes | Included in DRG 514 | Included in DRG 515 |
|---|---|---|
| Principal Diagnosis Codes: | | |
| All of the principal diagnosis codes assigned to MDC–5 | X | X |
| Principal or Secondary Procedure Code: | | |
| 37.94 Implantation or replacement of automatic cardioverter/defibrillator, total system (AICD) | X | X |
| Combination Operating Procedure Codes: | | |
| 37.95 Implantation of automatic cardioverter/defibrillator lead(s) only; | | |
| **Plus** | | |
| 37.96 Implantation of automatic cardioverter/defibrillator pulse generator only; | X | X |
| **Or** | | |
| 37.97 Replacement of automatic cardioverter/defibrillator lead(s) only; | | |
| **Plus** | | |
| 37.98 Replacement of automatic cardioverter/defibrillator pulse generator only | X | X |
| **Plus:** One of the Following Nonoperating Room ProcedureCodes: | | |
| 37.21 Right heart cardiac catheterization | X | |
| 37.22 Left heart cardiac catheterization | X | |

CHART 4.—COMPOSITION OF NEW DRGS 514 AND 515 IN MDC 5—Continued

| Diagnosis and procedure codes | | Included in DRG 514 | Included in DRG 515 |
|---|---|---|---|
| 37.23 | Combined right and left heart cardiac catheterization | X | |
| 37.26 | Cardiac electrophysiologic stimulation and recording studies | X | |
| 88.52 | Angiocardiography of right heart structures | X | |
| 88.53 | Angiocardiography of left heart structures | X | |
| 88.54 | Combined right and left heart angiocardiography | X | |
| 88.55 | Coronary arteriography using a single catheter | X | |
| 88.56 | Coronary arteriography using two catheters | X | |
| 88.57 | Other and unspecified coronary arteriography | X | |
| 88.58 | Negative-contrast cardiac roentgenography | X | |

b. Percutaneous Cardiovascular Procedures

In the May 4 proposed rule, we indicated that we had reviewed other DRGs within MDC 5 in order to determine if there were also logic changes that could be made to these DRGs. The data were arrayed in a variety of ways displaying myriad permutations, resulting in the following proposed changes.

A percutaneous transluminal coronary angioplasty (PTCA) is an acute intervention intended to minimize cardiac damage by restarting circulation to the heart. Some patients with an acute myocardial infarction (AMI) are now treated by performing a PTCA during the hospitalization for the AMI. Currently, PTCAs with a coronary stent implant are assigned to DRG 116 (Other Permanent Cardiac Pacemaker Implantation, or PTCA with Coronary Artery Stent Implant), along with pacemaker implants. The remaining percutaneous cardiovascular procedures are assigned to DRG 112 (Percutaneous Cardiovascular Procedures).

The volume of percutaneous cardiovascular procedures has grown dramatically, with 186,669 cases identified in the FY 2000 MedPAR file containing hospital bills submitted through May 31, 2000. Because of the high volume, we decided to review the DRG for percutaneous cardiovascular procedures. As a first step in the evaluation, we combined the percutaneous cardiovascular procedures from DRGs 112 and 116. We then subdivided the combined percutaneous cardiovascular procedure group into two groups based on the principal diagnosis (Pdx) of AMI.

| Group | Count | Average charge |
|---|---|---|
| With Pdx of AMI | 50,442 | $31,722 |
| Without Pdx of AMI | 136,227 | 23,989 |

Each of these groups was further evaluated by subdividing them based on whether a coronary stent was implanted. The vast majority of patients with an AMI had a coronary stent implanted. Patients without an AMI were subdivided into two groups based on whether a coronary stent was implemented.

| Group | Count | Average charge |
|---|---|---|
| Without Pdx of AMI with stent | 111,441 | $24,745 |
| Without Pdx of AMI without stent | 24,786 | 20,589 |

In the proposed rule, based on this analysis, we proposed the removal of PTCAs with coronary artery stent from DRG 116, thus limiting DRG 116 to permanent cardiac pacemaker implantation. This removal would leave approximately 68,000 non-PTCA cases in DRG 116.

In conjunction with this evaluation, we considered a new technology, intravascular brachytherapy, that is being used to treat coronary in-stent stenosis. A gamma-radiation-impregnated tape is threaded through the affected vessel for a specified amount of dwell time, and then the tape is removed. Intravascular brachytherapy was approved by the Food and Drug Administration in November 2000.

Intravascular brachytherapy is assigned to procedure code 92.27 (Implantation or insert of radioactive elements). With the use of angioplasty, these cases are currently assigned to DRG 112 (Percutaneous Cardiovascular Procedures). Therefore, cases involving this new technology will be implicated by these changes.

Also in the proposed rule, we proposed to retitle DRG 116 ''Other Cardiac Pacemaker Implantation,'' remove DRG 112, and create three new DRGs: DRG 516 (Percutaneous Cardiovascular Procedures with Acute Myocardial Infarction (AMI)); DRG 517 (Percutaneous Cardiovascular Procedures without AMI, with Coronary Artery Stent Implant); and DRG 518 (Percutaneous Cardiovascular Procedures without AMI, without Coronary Artery Stent Implant). In order to be assigned to new DRG 516, cases must contain one of the principal diagnoses *plus* the operating room procedures listed in Chart 5. Because DRG 516 contains acute myocardial infarction, which is hierarchically ordered before DRGs 517 and 518, any AMI cases also containing codes 92.27 or 36.06 (Insertion of coronary artery stents(s)) would automatically be assigned to DRG 516. We also proposed the assignment of patients with a percutaneous cardiovascular procedure and intravascular radiation treatment to new DRG 517. As more data become available, we will reassess the assignment of intravascular radiation treatment to DRG 517. New DRG 518 would contain the same operating room and nonoperating room procedures as new DRG 517, with the exception of codes 92.27 and 36.06. We received 10 comments on this proposal.

*Comment:* Several commenters supported the reclassification of percutaneous vascular procedures to DRGs within this MDC. Other commenters, however, stated the proposed changes would be inappropriate because they would reduce payment overall for percutaneous cardiovascular procedures. These commenters noted that new technologies associated with these procedures are, in fact, more costly rather than less costly. In addition, commenters expressed concern that payment for pacemakers under DRG 116 would be reduced from FY 2001 levels.

*Response:* Based on 100 percent of FY 2000 discharges on file through March 2001, we estimate the case-weighted average relative weight for DRGs 116, 516, 517 and 518 to be 2.2236, a 4.5 percent decline from the case-weighted average relative weight for DRGs 112 and 116 for FY 2001 (2.3280). As discussed above in relation to the new DRGs 514 and 515, the calculation of

the relative weights reflects the charges submitted by hospitals for these cases.

*Comment:* Five commenters addressed only the inclusion of code 92.27 (Implantation or insertion of radioactive elements, also known as brachytherapy) in new DRG 517 in cases without presence of AMI (these cases would go to DRG 516 if AMI were present). Four of the five expressed appreciation for this change, citing its clinical appropriateness and increased payment, which is close to the additional facility costs for performing the procedure.

One commenter, while commending the decision to assign these cases to DRG 517, requested clarification about our decisionmaking process in assigning this technology to the same DRG as coronary stents. The commenter requested that we outline the specific criteria we applied or the process we followed to evaluate the adequacy of the external data submitted.

*Response:* Although we received external data from a manufacturer of this technology, they were not the basis for our decision, as we were unable to verify the data because the data were submitted too late in the process of preparing the FY 2002 proposed rule. When we proposed to restructure DRGs 112 and 116, our decision was based on the clinical coherence of the DRGs. Intravascular radiation treatment is an invasive procedure that requires an additional 35 to 45 minutes, and requires the services of both a radiation (nuclear) physicist and a radiation safety officer in the operating room, as well as specifically trained operating room personnel, such as an ultrasound specialist.

*Comment:* One commenter wrote that these changes fail to account for the use of GP IIB–IIIA inhibitors for cases with acute coronary syndromes. The commenter was concerned whether the DRG assignment for these cases under the proposed DRGs would be appropriate.

*Response:* The administration of GP IIB–IIIA inhibitors is through intravenous infusion, and is assigned to code 99.20 (Injection or infusion of platelet inhibitor). The GROUPER does not recognize code 99.20 as a procedure and, therefore, its presence does not affect DRG assignment. As described above, the DRG assignment for these cases under the newly configured DRGs 116, 516, 517, and 518 would be determined by the presence of AMI and the presence of other procedures that would cause the case to group to one of the other DRGs besides 518. Our analysis of FY 2000 MedPAR data indicates that, among cases with code 99.20 currently assigned to either DRGs 112 or 116 for FY 2000, the majority of these cases are currently assigned to DRG 116 (317,108 discharges compared to 52,945). Therefore, the majority of these cases involve procedures that do affect DRG assignment. We will continue to evaluate these cases, however, to determine whether further revisions would be appropriate.

*Comment:* One commenter indicated that codes 37.27 (Cardiac mapping) and 37.34 (Catheter ablation of lesion or tissues of heart) would now be grouped to new DRGs 516, 517, and 518. Because these procedures are not usually used on patients with AMI or patients who receive a stent, the commenter indicated the cases would most likely be grouped to DRG 518. The commenter believed that we were unaware that certain procedures, such as the two previously mentioned, have greater resource utilization than other percutaneous cardiovascular procedures that do not involve AMI or stents. The commenter asserted that this is an inadvertently inappropriate classification. The commenter recommended that CMS either create a separate DRG for cardiac mapping and ablation procedures, or else assign codes 37.27 and 37.34 to DRG 516 after retitling the DRG appropriately.

*Response:* These cases previously were assigned to either DRG 112 or 116, depending upon whether they involved the insertion of a stent or the implantation of a pacemaker. This GROUPER assignment logic did not change, although the presence or absence of AMI is now a factor as well. We believe this is an appropriate clinical categorization. However, we will consider this issue as we continue to evaluate these DRGs.

The principal diagnosis codes and operating room and nonoperating room procedure codes that are included in the new DRGs 516, 517, and 518 are reflected in Chart 5.

CHART 5.—COMPOSITION OF NEW DRGS 516, 517, AND 518 IN MDC 5

| Diagnosis and procedure codes | Included in DRG 516 | Included in DRG 517 | Included in DRG 518 |
|---|---|---|---|
| Principal Diagnosis Codes: | | | |
| 410.01 Acute myocardial infarction of anterolateral wall, initial episode of care | X | | |
| 410.11 Acute myocardial infarction of other anterior wall, initial episode of care | X | | |
| 410.21 Acute myocardial infarction of inferolateral wall, initial episode of care | X | | |
| 410.31 Acute myocardial infarction of inferoposterior wall, initial episode of care | X | | |
| 410.41 Acute myocardial infarction of other inferior wall, initial episode of care | X | | |
| 410.51 Acute myocardial infarction of other lateral wall, initial episode of care | X | | |
| 410.61 True posterior wall infarction, initial episode of care | X | | |
| 410.71 Subendocardial infarction, initial episode of care | X | | |
| 410.81 Acute myocardial infarction of other specified sites, initial episode of care | X | | |
| 410.91 Acute myocardial infarction of unspecified site, initial episode of care | X | | |
| **Plus:** | | | |
| Operating Room Procedures: | | | |
| 35.96 Percutaneous valvuloplasty | X | X | X |
| **And** | | | |
| 36.01 Single vessel percutaneous transluminal coronary angioplasty (PTCA) or coronary atherectomy without mention of thrombolytic agent | X | X | X |
| **Or** | | | |
| 36.02 Single vessel percutaneous transluminal coronary angioplasty (PTCA) or coronary atherectomy with mention of thrombolytic agent | X | X | X |
| **Or** | | | |
| 36.05 Multiple vessel percutaneous transluminal coronary angioplasty (PTCA) or coronary atherectomy performed during the same operation, with or without mention of thrombolytic agent | X | X | X |

CHART 5.—COMPOSITION OF NEW DRGS 516, 517, AND 518 IN MDC 5—Continued

| Diagnosis and procedure codes | Included in DRG 516 | Included in DRG 517 | Included in DRG 518 |
|---|---|---|---|
| **And** | | | |
| 36.09 Other removal of coronary artery obstruction | X | X | X |
| **And** | | | |
| 37.34 Catheter ablation of lesion or tissues of heart | X | X | X |
| 92.27 Implantation or insertion of radioactive elements | ..... | X | ..... |
| **Or:** | | | |
| Nonoperating Room Procedures: | | | |
| 36.06 Insertion of coronary artery stent(s) | ..... | X | ..... |
| 37.26 Cardiac electrophysiologic stimulation and recording studies | X | X | X |
| 37.27 Cardiac mapping | X | X | X |

DRG 121 (Circulatory Disorders with AMI and Major Complication, Discharged Alive), DRG 122 (Circulatory Disorders with AMI without Major Complication, Discharged Alive), and DRG 123 (Circulatory Disorders with AMI, Expired) are not affected by these changes.

c. Removal of Heart Assist Systems

The ICD–9–CM Coordination and Maintenance Committee considered the nonoperative removal of heart assist systems at its November 17, 2000 meeting. A device called the intra-aortic balloon pump (IABP) is one of the most common types of ventricular assist systems. A balloon catheter is placed into the patient's descending thoracic aorta, and inflates and deflates with each heartbeat. This device is timed with the patient's own heart rhythm, and inflates and circulates blood to the heart and other organs. This allows the heart to rest and recover. The IABP may be used preoperatively, intraoperatively, or postoperatively. It supports the patient from a few hours to several days.

Code 37.64 (Removal of heart assist system) already exists, and it is considered by the GROUPER to be an operative procedure. However, the nonoperative removal of a heart assist system can be done at the patient's bedside, is noninvasive, and requires no anesthesia. Therefore, the Committee created code 97.44 (Nonoperative removal of heart assist system) for use with discharges beginning on or after October 1, 2001.

In the past, we have assigned new ICD–9–CM codes to the same DRG to which the predecessor code was assigned. In the proposed rule, we explained that if this practice were to be followed, we would have proposed that code 97.44 be assigned to MDC 5, DRGs 478 (Other Vascular Procedures with CC) and 479 (Other Vascular Procedures without CC). After hospital charge data became available, we would have considered moving it to other DRGs. However, in accordance with section 533(a) of Public Law 106–554, which requires a more expeditious technique of recognizing new medical services or technology for the hospital inpatient prospective payment system, we will reconsider this longstanding practice when possible. Therefore, as code 97.44 was designed to capture heart assist system removal that is clearly nonoperative, we did not propose to designate 97.44 as a code which the GROUPER recognizes as a procedure. The GROUPER will assign these cases to a medical DRG based on the principal diagnosis, or to a surgical DRG if a surgical procedure recognized by the GROUPER is performed. This assignment can be found in Table 6B, New Procedure Codes, in the Addendum to this rule.

We received no comments on this proposal. However, we did receive comments on another issue in MDC 5, relating to DRGs 110 and 111 (Major Cardiovascular Procedures with and without CC).

*Comment:* One commenter submitted a case study on stent technology, noting that Medicare payments in their facility were 31.4 percent lower than total costs. This commenter made no recommendations, but stated that often surgeons must use additional stent segments to repair aneurysms, increasing total costs by thousands of dollars.

*Response:* We do not have a clear understanding of the commenter's statement that often surgeons must use additional stent segments to repair aneurysms, thereby increasing total costs. We are unclear because the device presented to us for new ICD–9–CM code consideration was proposed as a single device, custom-fitted to the patient's needs. We will continue to monitor this technology and the new code (used for discharges on or after October 1, 2001).

*Comment:* One commenter noted that aortic endografts are assigned to DRGs 110 and 111, and the cost of the device alone is greater than the entire payment for DRG 111. The commenter noted that this is a straightforward issue, and recommended that these cases be assigned specifically to DRG 110.

*Response:* DRGs 110 and 111 are what we refer to as paired DRGs. Paired DRGs are exactly the same as each other with regard to the principal diagnosis and procedure codes in most cases. However, other aspects of the patient's case have a bearing on DRG assignment, such as the patient's age or the secondary diagnoses (which determine comorbidities or complications in appropriate DRGs). In this case, DRGs 110 and 111 are divided based on the presence or absence of secondary diagnosis codes. If there are no secondary diagnosis codes present, the case will be assigned to DRG 111. It has been our experience that patients not having secondary diagnoses are less expensive for the hospital to treat, thereby resulting in a lower weighted DRG assignment.

Hospitals should code their records completely, recording and submitting all relevant diagnosis and procedure codes having a bearing on the current admission. As noted previously, payment for each DRG is based on the average charges for cases assigned to that DRG as submitted to us by hospitals.

3. MDC 8 (Diseases and Disorders of the Musculoskeletal System and Connective Tissue)

a. Refusions

We have received questions from correspondents regarding the appropriateness of the spinal fusion DRGs: DRG 496 (Combined Anterior/Posterior Spinal Fusion); DRG 497 (Spinal Fusion with CC); and DRG 498 (Spinal Fusion without CC). Several correspondents expressed concern about the inclusion of all refusions of the spine into one procedure code, 81.09 (Refusion of spine, any level or technique). The correspondents pointed out that because all refusions using any technique or level are in this one code,

all of these cases are assigned to DRG 497 and DRG 498. They also pointed out that fusion cases involving both an anterior and posterior technique are assigned to DRG 496. Although cases with the refusion code that involve anterior and posterior techniques would appear to be more appropriately assigned to DRG 496, this is not the case.

We recognized this limitation in the refusion codes and further acknowledged that this limitation in the ICD–9–CM coding system creates DRG problems by preventing the assignment to DRG 496 even when both anterior and posterior techniques are used for refusion cases. Therefore, we referred the issue to the ICD–9–CM Coordination and Maintenance Committee and requested the Committee to consider code revisions for the refusions of the spine during its year 2000 public meetings.

After its deliberations, the Committee approved a series of new procedure codes for refusion of the spine that could lead to improvements within DRGs 497 and 498. These new codes, listed below, go into effect on October 1, 2001.

81.30 Refusion of spine, not otherwise specified
81.31 Refusion of atlas-axis spine
81.32 Refusion of other cervical spine, anterior technique
81.33 Refusion of other cervical spine, posterior technique
81.34 Refusion of dorsal and dorsolumbar spine, anterior technique
81.35 Refusion of dorsal and dorsolumbar spine, posterior technique
81.36 Refusion of lumbar and lumbosacral spine, anterior technique
81.37 Refusion of lumbar and lumbosacral spine, lateral transverse process technique
81.38 Refusion of lumbar and lumbosacral spine, posterior technique
81.39 Refusion of spine, not elsewhere classified

As previously stated, all refusions of the spine and corrections of the pseudarthrosis of the spine are assigned to code 81.09. Code 81.09, which is always assigned to DRG 497 or DRG 498, includes refusions at any level of the spine using any technique. With the creation of the new procedure codes listed above, it will be possible to determine the level of the spine at which the refusion is performed, as well as the technique used, and assign the case to a more appropriate DRG.

These new procedure codes should greatly improve our ability to determine the level and technique used in the refusion.

In the past, we have assigned new ICD–9–CM codes to the same DRG to which the predecessor code was assigned. In the proposed rule, we explained that if this practice were followed, these new codes would have been assigned to DRG 497 and 498 as they are currently. After data became available, we would have considered moving them to other DRGs. However, in accordance with section 533(a) of Public Law 106–554, which requires more expeditious methods of recognizing new medical services or technology under the inpatient hospital prospective payment system, we will reconsider this longstanding practice when possible. Since the new codes clearly allow us to identify cases where the technique was either anterior or posterior and these cases are clinically similar and, therefore, should be handled in the same fashion, we proposed to immediately assign these cases on the same basis as the fusion codes (81.00 through 81.09). We would not wait for actual claims data before making this change. These assignments are reflected in Chart 6 and also can be found in Table 6B, in section V. of the Addendum to this final rule.

*Comment:* One commenter supported the creation of the ICD–9–CM codes for refusions as well as their proposed DRG assignments.

*Response:* We appreciate the support of the commenter and are adopting the proposed DRG assignments for refusions of spine as final.

b. Fusion of Cervical Spine

In the proposed rule we discussed an inquiry concerning the spinal DRGs that focused on fusions of the cervical spine. The inquirer stated that there was a significant difference between inpatients who undergo anterior cervical spinal fusion and other types of spinal fusion in regard to treatment, recovery time, costs, and risk of complications. Anterior cervical spinal fusions are assigned to procedure code 81.02 (Other cervical fusion, anterior technique). The inquirer pointed out that anterior cervical fusions differ significantly from anterior techniques at other levels since the anatomic approach is far less invasive. Thoracic anterior techniques require working around the cardiac and respiratory systems in the chest cavity, while lumbar anterior techniques require working around bowel and digestive system and the abdominal muscles. The inquirer recommended that code 81.02 be removed from DRGs 497 and 498 and grouped separately.

We analyzed claims data from the FY 2000 MedPAR file containing hospital bills received through May 31, 2000, and confirmed that charges are lower for fusions of the cervical spine than fusions of the thoracic and lumbar spine. This was true for both anterior and posterior cervical fusions of the spine. Our medical consultants agree that the data and their clinical analysis support the creation of new DRGs for cervical fusions of the spine. We proposed to remove procedure codes 81.02 and 81.03 from the spinal fusion DRGs (currently, DRGs 497 and 498) and assign them to new DRGs for cervical spinal fusion with and without CC. We also proposed four groupings for fusion DRGs. The net effect of this change is an increase in the weights for DRGs 497 and 498, since the lower charges for the cervical fusions would be removed. The average standardized charge for all spinal fusions with CCs was $26,957. For all spinal fusions without CCs, the average charge was $16,492. The table below also shows average standardized charges for these types of cases before and after the revisions.

| Revised spinal fusion DRGs | Average charge before revisions | Average charge after revisions |
|---|---|---|
| DRG 497 Spinal Fusion Except Cervical with CC | $26,957 | $36,821 |
| DRG 498 Spinal Fusion Except Cervical without CC | 17,492 | 26,297 |
| DRG 519 Cervical Spinal Fusion with CC | ..... | 26,957 |
| DRG 520 Cervical Spinal Fusion without CC | ..... | 16,492 |

Based on the groupings, we proposed the creation of two new DRGs: DRG 519 (Cervical Spinal Fusion with CC); and DRG 520 (Cervical Spinal Fusion without CC). The procedure codes that would be included in the DRGs 519 and 520 are reflected in Chart 6 below.

We also proposed to add the new ICD–9–CM procedure codes for refusion of the cervical spine (81.32 and 81.33) to the new cervical spine fusion DRGs because they are clinically similar.

In addition, we proposed to retitle DRG 497 ''Spinal Fusion Except Cervical with CC'' and DRG 498 ''Spinal Fusion Except Cervical without CC.'' The retitled DRGs 497 and 498 would retain fusion codes 81.00, 81.01, and 81.04 through 81.08 and include the new refusion codes 81.30, 81.31, and 81.34 through 81.39, as reflected in Chart 6 below.

*Comment:* One commenter commended the creation of the new ICD–9–CM codes for spinal refusions and the development of the new DRGs for cervical fusions. This commenter, a manufacturer of devices used for spinal fusions, agreed that cervical fusions on average cost less than lumbar and thoracic fusions. Another commenter who supported the creation of the new DRGs mentioned that this classification would more appropriately reflect the resources used in the varying cases.

Two commenters asserted that DRGs 497 and 498 fail to take into account the cost variations when multi-level spinal fusions are performed. The commenters stated that the cost and complexity of a discharge varies substantially depending on the number of levels performed as part of a fusion procedure. Commenters recommended that new ICD–9–CM procedure codes be created for multi-level spine procedures to track and measure costs. The current ICD–9–CM codes do not differentiate between the number of levels that are fused. The commenter defined multi-level as three or more vertebral segments, either anterior or posterior, or both. In addition, the commenter recommended that these new multi-level fusion codes be assigned to the higher weighted DRG 496. The commenter recommended that DRG 496 be renamed ''Multi-Level Spine Procedure Anterior and/or Posterior for Stabilization and/or Correction and/or Refusion.''

*Response:* We agree that the current ICD–9–CM procedure codes do not differentiate between the number of levels fused. This proposal will be addressed by the ICD–9–CM Coordination and Maintenance Committee at its November 1, 2001 meeting. A potential problem with this recommendation will be the need to avoid overlapping codes. The current fusion codes are based on an axis of the level of the fusion (cervical or lumbar) and an additional axis of the approach (anterior, posterior, or lateral transverse). Devising a modified or additional scheme that utilizes an additional axis of the number of disks fused may be quite challenging. If this scheme requires the use of a set of codes from the new Chapter 17, we could quickly use up these currently empty codes. As far as the recommendation to include these new multi-level fusion codes in DRG 496, this issue will be deferred until after the coding issue is addressed. If new codes are created, they will be included in an upcoming proposed rule along with their proposed DRG assignment.

Since there was support for the proposed changes to the spinal DRGs, these will be implemented as final changes effective October 1, 2001.

c. Posterior Spinal Fusion

We received other correspondence regarding the current DRG assignment for code 81.07, Lumbar and lumbosacral fusion, lateral transverse process technique. The correspondent stated that physicians consider code 81.07 to be a posterior procedure. The patient is placed prone on the operating table and the spine is exposed through a vertical midline incision. The correspondent pointed out that code 81.07 is not classified as a posterior procedure within DRG 496 (Combined Anterior/Posterior Spinal Fusion). Therefore, when 81.07 is reported with one of the anterior techniques fusion codes, it is not assigned to DRG 496. The correspondent recommended that code 81.07 be added to the list of posterior spinal fusion codes for use in determining assignment to DRG 496.

In the proposed rule, we indicated that we consulted with our clinical advisors and they agreed that this addition should be made. Since we proposed to handle the new refusion codes in the same manner as the fusion codes, we also proposed to assign DRG 496 when 81.37 is used with one of the anterior technique fusion or refusion codes. This would be similar to the manner in which code 81.07 is classified. For assignment to DRG 496, we would consider codes 81.02, 81.04, 81.06, 81.32, 81.34, and 81.36 to be anterior techniques and codes 81.03, 81.05, 81.07, 81.08, 81.33, 81.35, and 81.38 to be posterior techniques.

CHART 6.—REVISED COMPOSITION OF DRGS 496, 497, AND 498 AND COMPOSITION OF DRG 519 AND 520 IN MDC 8

| Diagnosis and procedure codes | Existing DRG 496 | | Retained in or Added to existing DRG 497 | Retained in or Added to existing DRG 498 | Included in DRG 519 included in DRG 520 | |
|---|---|---|---|---|---|---|
| | Assigned as anterior techniques | Assigned as posterior techniques | | | | |
| Principal or Secondary Procedure Codes: | | | | | | |
| 81.00 Spinal fusion, not otherwise specified | ..... | ..... | X | X | ..... | ..... |
| 81.01 Atlas-axis fusion | ..... | ..... | X | X | ..... | ..... |
| 81.02 Other cervical fusion, anterior technique | X | ..... | ..... | ..... | X | X |
| 81.03 Other cervical fusion, posterior technique | ..... | X | ..... | ..... | X | X |
| 81.04 Lumbar and lumbosacral fusion, anterior technique | X | ..... | X | X | ..... | ..... |
| 81.05 Lumbar and lumbosacral fusion, posterior technique | ..... | X | X | X | ..... | ..... |
| 81.06 Lumbar and lumbosacral fusion, anterior technique | X | ..... | X | X | ..... | ..... |
| 81.07 Lumbar and lumbosacral fusion, lateral transverse process technique | ..... | X | X | X | ..... | ..... |
| 81.08 Lumbar and lumbosacral fusion, posterior technique | ..... | X | X | X | ..... | ..... |

CHART 6.—REVISED COMPOSITION OF DRGS 496, 497, AND 498 AND COMPOSITION OF DRG 519 AND 520 IN MDC 8—Continued

| Diagnosis and procedure codes | Existing DRG 496 | | Retained in or Added to existing DRG 497 | Retained in or Added to existing DRG 498 | Included in DRG 519 included in DRG 520 | |
|---|---|---|---|---|---|---|
| | Assigned as anterior techniques | Assigned as posterior techniques | | | | |
| 81.30 Refusion of spine, not otherwise specified | | | X | X | | |
| 81.31 Refusion of atlas-axis spine | | | X | X | | |
| 81.32 Refusion of other cervical spine, anterior technique | X | | | | X | X |
| 81.33 Refusion of other cervical spine, posterior technique | | X | | | X | X |
| 81.34 Refusion of dorsal and dorsolumbar spine, anterior technique | X | | X | X | | |
| 81.35 Refusion of dorsal and dorsolumbar spine, posterior technique | | X | X | X | | |
| 81.36 Refusion of lumbar and lumbosacral spine, anterior technique | X | | X | X | | |
| 81.37 Refusion of lumbar and lumbosacral spine, posterior technique | | X | X | X | | |
| 81.38 Refusion of lumbar and lumbosacral spine, posterior technique | | X | X | X | | |
| 81.39 Refusion of spine, not elsewhere classified | | | X | X | | |

There was no opposition expressed to the changes proposed for posterior spinal fusions; therefore, we are adopting the proposed changes as final.

d. Spinal Surgery

The California Division of Workers' Compensation notified us of a possible problem with the following spinal DRGs:

DRG 496 (Combined Anterior/Posterior Spinal Fusion)
DRG 497 (Spinal Fusion with CC)
DRG 498 (Spinal Fusion without CC)
DRG 499 (Back & Neck Procedures except Spinal Fusion with CC)
DRG 500 (Back & Neck Procedures except Spinal Fusion without CC)

The Division of Workers' Compensation uses the DRG categories developed by CMS to classify types of hospital care. However, instead of using CMS' weights for determining reimbursement for inpatient services, the Division sets a global fee for all inpatient medical services not otherwise exempted. This fee is established by multiplying the product of the DRG weight (or revised DRG weight for a small number of categories) and the health facility's composite factor by 1.20 to get the maximum amount for worker compensation admissions.

The Division of Workers' Compensation has received reports that the formula it uses for reimbursing cases may be providing inadequate reimbursement. California hospitals and orthopedists have reported that certain spinal surgery DRGs (DRGs 496 through 500) may involve different types of care and/or technologies than those in use at the time these groups were formulated. Health care providers in California report ''recent increased use of the new implantation devices, hardware, and instrumentation, coupled with requirements for intensive hospital services accompanying use of new procedures, has led to inadequate reimbursement in these DRGs.'' As a short-term response to these concerns, the California Division of Workers' Compensation is exempting the costs of hardware and instrumentation from the global fee of the fee schedule for DRGs 496 through 500. The Division also requested that CMS examine these DRGs for any potential problem under the Medicare reimbursement system.

The ICD–9–CM coding system does not capture specific types of implantation devices, hardware, and instrumentation. Therefore, we were not able to verify the claim that these new devices have led to increased costs in specific cases. We believe that the adoption of a more detailed coding system, such as ICD–10–PCS, would supply greater amounts of detail on these items. However, in the short term, it is not possible to identify a specific problem that involves implantation devices, hardware, and instrumentation.

*Comment:* As previously stated, we received support for the proposed changes to the spinal fusion DRGs. As was also stated, one commenter pointed out that the current ICD–9–CM codes do not specify the number of levels fused, nor do they specify the types of devices used.

One commenter, who manufactures spinal fusion devices, commended the new ICD–9–CM codes for refusions and the new DRGs for cervical fusions. This commenter also requested new codes specifying the number of levels fused. The commenter stated that typically two devices are used per level and therefore, with increased levels, there would be an increase in the number of infusion devices. The commenter recommended new codes for multi-level spinal fusions, but did not recommend new codes that would specify particular types of devices.

*Responses:* This coding issue will be addressed at future meetings of the ICD–9–CM Coordination and Maintenance Committee. If new codes are created, their DRG assignment would be addressed in a subsequent proposed rule.

4. MDC 11 (Diseases and Disorders of the Kidney and Urinary Tract)

We have received correspondence from a manufacturer of an implantable vascular device requesting that code 86.07 (Insertion of totally implantable vascular access device [VAD]) be assigned as an operative procedure in MDC 11, to DRG 315 (Other Kidney & Urinary Tract O.R. Procedures). This request was inadvertently omitted from the May 4, 2001 proposed rule. Therefore, we are taking this opportunity to discuss possible designation of this procedure code as a code affecting DRG assignment in MDC 11.

Procedure code 86.07 describes the implantation of a VAD into the chest wall and blood vessels of a patient's upper body. Patients requiring this particular device have been diagnosed with renal (kidney) failure. Insertion of a VAD allows access to the patient's blood for dialysis purposes when other sites for hemodialysis have been exhausted. According to representatives from the manufacturer of one particular VAD used for hemodialysis, this device costs the hospitals $1,750, and is usually inserted in the outpatient setting as opposed to admission for insertion of the device.

The GROUPER program does not recognize code 86.07 as a procedure in other than MDC 9 (Disease and Disorders of the Skin, Subcutaneous Tissue and Breast), in DRGs 269 and 270 (Other Skin, Subcutaneous Tissue & Breast Procedure, with and without CC). Therefore, its presence in any other MDC does not affect DRG assignment. Patients who are admitted with renal failure and who have a VAD inserted will be assigned to DRG 316 (Renal Failure), absent any other surgical procedures. DRG 316 is a medical DRG with a lower relative weight than cases in the surgical DRGs within the same MDC.

We extensively reviewed the MedPAR data. We found that code 86.07 appeared in 358 different DRGs. Of these 358 DRGs, 173 include additional procedures recognized by GROUPER and are therefore considered surgical, while 185 are medical. Because of the space limitations of the ICD–9–CM, code 86.07 is used to describe VAD devices used for other purposes than hemodialysis.

We looked specifically at the cases within DRGs 315 and 316 as shown in the two tables below:

DRG 315 (SURGICAL)

| | With code 86.07 | Without code 86.07 |
|---|---|---|
| Number of Cases | 421 | 19,815. |
| Average Length of Stay | 12.5 days | 6.8 days. |
| Average Charges | $39,946 | $23,061. |

DRG 316 (MEDICAL)

| | With code 86.07 | Without code 86.07 |
|---|---|---|
| Number of Cases | 1,020 | 19,815. |
| Average Length of Stay | 10.2 days | 6.6 days. |
| Average Charges | $27,730 | $15,045. |

Cases containing code 86.07 have higher average lengths of stay as well as higher average charges than cases not containing this code. We further examined the total number of reported procedures, as well as the range of average charges across both DRGs, for cases containing code 86.07. Both DRGs contain a significant number of additional procedures. The nature of these procedures varies widely, including such divergent procedures as X-rays and scans, injections, dental extraction, cardiac catheterization, aneurysm repair, and laparoscopic cholecystectomy. We also identified 24 cases in DRG 315 and 28 cases in DRG 316 with multiple insertions of the VAD. We believe those instances where the VAD is inserted as an inpatient procedure involve cases where other complications exist, leading to the higher average charges noted above. We are not assigning code 86.07 to DRG 315 as a surgical procedure, but will continue to consider possible alternative specifications of these DRGs.

Additionally, we take this opportunity to clarify correct coding practice. It has come to our attention that a brochure is being distributed with the product that advocates coding insertion of the Lifesite® Hemodialysis Access System using ICD–9–CM procedure code 86.07 in addition to code 39.93 (Insertion of vessel-to-vessel cannula). Inclusion of code 39.93 will force these cases into DRG 315, the higher weighted surgical DRG. Our data review showed 33 such cases of double coding. We would caution hospitals that the use of code 39.93, in the absence of the actual procedure, is erroneous. According to our vascular surgeon consultant, the LifeSite® Hemodialysis Access System as presented to us is not a vessel-to-vessel cannula. It is a device inserted into a vessel. Therefore, providers submitting code 39.93 without the actual procedure having been performed are at risk for review of fraudulent coding practice and DRG upcoding.

This same product brochure contains the name and telephone number of a nationally recognized coding specialist. The addition of this specialist's name and number was included without her knowledge or consent. We take this opportunity to reiterate that LifeSite® Hemodialysis Access System is correctly coded using 86.07 alone.

5. MDC 12 (Diseases and Disorders of the Male Reproductive System)

At its May 11, 2000 public meeting, the ICD–9–CM Coordination and Maintenance Committee considered a request from a manufacturer to create a unique code for the procedure Penile plethysmography with nerve stimulation in DRG 334 (Major Male Pelvic Procedures with CC). The penile plethysmography is a test that can be performed during a radical prostatectomy procedure. During the course of the procedure, the physician places a probe within an area where the prostatic nerves are thought to be located and is able to detect minor changes in penile tumescence or detumescence. This reaction tells the physician that the nerve bundles have been located, which may aid the physician in performing a nerve-sparing radical prostatectomy procedure with precision. The nerve bundles can also be restimulated at the conclusion of the procedure, providing immediate feedback as to whether erectile function will be restored after surgery.

After a presentation on the nerve identifying procedure and review of existing ICD–9–CM codes, the ICD–9–CM Coordination and Maintenance Committee determined that the existing

code 89.58 (Plethysmogram) adequately describes this test.

Radical prostatectomies for patients with cancer of the prostate are grouped in either DRG 334 (Major Male Pelvic Procedures with CC) or DRG 335 (Major Male Pelvic Procedures without CC). We have received a request from a manufacturer of a nerve-identifying device to assign cases containing code 89.58 into DRG 334 only, not into DRG 335. DRG 334 results in higher payments to hospitals. For FY 2002, DRG 334 has a relative weight of 1.5177, and DRG 335 has a relative weight of 1.1047. The manufacturer requested that we designate code 89.58 as an operating room procedure code that would be recognized by the GROUPER software, and make that code applicable only to DRG 334. The manufacturer believed that this would serve to take any cases of nerve sparing out of the lower paying DRG 335, and would make the technology more attractive to hospitals. As paired DRGs 334 and 335 are currently structured, they differ only in whether or not a secondary diagnosis identified as a CC is recorded.

We examined those cases in DRG 334 to which the procedure code for prostatectomy was assigned. Of the total 7,241 cases in DRG 334 identified, 5,611 of these cases contained procedure code 60.5 (Radical prostatectomy). Only three of the prostatectomy cases included code 89.58. There are not a sufficient number of cases on which to base an assessment of the payment for this procedure. Therefore, we did not propose to modify the assignment of code 89.58.

We received one comment on this proposal.

*Comment:* The commenter argued that the analysis conducted on the procedure code assignment of 89.58 was incomplete, as it did not include evaluation of DRG 335 in the calculations. The commenter added that DRG also includes radical prostatectomies for patients with cancer of the prostate.

*Response:* We apologize for the omission. Our review of data on DRG 335 showed that the DRG contained 8,125 total cases. There were 8,117 cases that did not contain procedure code 89.58; these cases had average total charges of $12,808. There were 8 cases in this group containing code 89.58. These 8 cases had average total charges of $16,366. We found a subset of 7,050 cases containing procedure code 60.5; these cases had average total charges of $12,772. Within this subset, only 7 cases were reported containing codes 60.5 and 89.58. These 7 cases had average total charges of $16,593.

Even including these additional cases, we identified very few cases in our analysis. Therefore, we are adopting as final our original proposed decision not to modify the assignment of code 89.58 by assigning it exclusively to DRG 334 within MDC 12. However, we will continue to monitor this procedure to determine whether a change in DRG assignment is warranted in the future.

6. MDC 15 (Newborns and Other Neonates With Conditions Originating in the Perinatal Period)

DRG 390 (Neonate with Other Significant Problems) contains newborn or neonate cases with other significant problems not assigned to DRGs 385 through 389, DRG 391, or DRG 469. To be assigned to DRG 389 (Full Term Neonate with Major Problems), the neonate must have one of the principal or secondary diagnosis listed under this DRG. A neonate is assigned to DRG 390 when the neonate has a principal or secondary diagnosis of newborn or neonate with other significant problems that are not assigned to DRG 385 through 389, 391, or 469.

We have received correspondence suggesting a number of changes to be made to DRGs 398 and 391. These changes involve removing two codes from DRG 389 and adding 17 codes to DRG 391, as described below.

a. DRG 389 (Full Term Neonate with Major Problems)

The correspondent suggested removing the following codes from DRG 389 and assigning them to DRG 390:

773.0 Hemolytic disease due to RH isoimmunization

773.1 Hemolytic disease due to ABO isoimmunization

The correspondent stated that hemolytic disease due to RH isoimmunization or due to ABO isoimmunization should not be considered a major problem. The correspondent recommended that these two conditions be classified as significant problems instead and thus assigned to DRG 390.

Our medical consultants sought additional advice from the National Association of Children's Hospitals and Related Institutions (NACHRI). (CMS contracts with the 3M Health Information Systems to maintain the DRG system. The medical experts at 3M evaluate proposed DRG changes from a clinical perspective. These medical consultants assist CMS in evaluating alternative proposals.) NACHRI and our medical consultants agree that it is appropriate to remove codes 773.0 and 773.1 from DRG 389. Therefore, we proposed to remove 773.0 and 773.1 from DRG 389 so that neonates with these conditions are assigned to DRG 390.

*Comment:* Several commenters supported the proposed revisions for newborns within MDC 15. One commenter stated that the code assignments mentioned in the proposed rule are more appropriately classified based on their clinical attributes. Another commenter agreed with the proposed changes, but requested that an additional code be added to those being moved to DRG 391 (Normal Newborn). Specifically, the commenter requested that code 779.3, Feeding problems in newborns, be listed under DRG 391. Currently, when this code is listed as a secondary code, it results in the assignment of the neonate to DRG 390. The commenter stated that this condition and its resource consumption should not cause the neonate to be classified under DRG 390.

*Response:* We discussed this additional issue with our medical consultants and they agreed that code 779.3 should also be listed under DRG 391. They concurred that the addition of this code as a secondary diagnosis should not lead to the newborn being classified as having a significant problem. Therefore, code 779.3 will be included among the codes being moved to DRG 391 as of October 1, 2001.

*Comment:* One commenter suggested that codes 773.0 and 773.1 be removed from DRG 387 (Prematurity with major problems) in addition to DRG 389. The list of major problems in DRGs 389 and 387 mirror each other. The only difference is that DRG 387 includes premature newborns. The commenter asked us to consider codes 773.0 and 773.1 as significant problems for newborns and classify them into DRG 390, which would make them applicable for premature and full-term newborns.

*Response:* We agree with the commenter. We are removing codes 773.0 and 773.1 from DRG 389 as well as DRG 387. This removal will result in these cases being assigned to DRG 390 (Neonate with Other Significant Problems).

b. DRG 391 (Normal Newborn)

We also have received correspondence with recommendations for changes to DRG 391. The correspondent pointed out that the following secondary codes currently lead to the assignment of the neonate to DRG 390 (Neonate with Other Significant Problems). The correspondent believed that the conditions described by these codes

should not cause the neonate to be classified under DRG 390 when reported as a secondary diagnosis. The correspondent recommended that these conditions be listed under DRG 391 (Normal Newborn).

478.1 Other diseases of nasal cavity and sinuses
520.6 Disturbances in tooth eruption
623.8 Other specified noninflammatory disorders of vagina
709.00 Dyschromia, unspecified
709.01 Vitiglio
709.09 Dyschromia, Other
744.1 Accessory auricle
754.61 Congenital pes planus
757.33 Congenital pigmentary anomalies of skin
757.39 Other specified anomaly of skin
764.08 ''Light for dates'' without mention of fetal malnutrition, 2,000–2,499 grams
764.98 Fetal growth retardation, unspecified, 2,000–2,499 grams
772.6 Cutaneous hemorrhage
794.15 Abnormal and auditory function studies
796.4 Other abnormal clinical findings
V20.2 Routine infant or child health check
V72.1 Examination of ears and hearing

Our medical consultants also sought the advice of NACHRI on this recommendation. NACHRI reviewed the list of codes and agreed that none of these conditions should be considered to be a significant problem for a neonate. NACHRI concurred that neonates with these secondary diagnoses should be classified as normal newborns. Therefore, we proposed to add the codes listed above to DRG 391 and not classify them to DRG 390 when reported as a secondary diagnosis.

*Comment:* One commenter expressed concern that the weights assigned to five newborn DRGs (DRGs 385, 368, 387, 388, and 389) are undervalued. The commenter pointed out that legislation mandating Early Hearing Detection and Intervention (EHDI) has been passed in 35 States plus the District of Columbia. In these States, hearing screening must be performed prior to the newborn's discharge from the hospital unless prevented by medical complications. The cost per screening ranges from $15 to $30, which includes personnel, supplies, and equipment costs which are amortized over 3 years. The screening also includes costs for babies that require diagnostic evaluation.

The commenter requested that data from States that have not implemented EHDI programs be deleted from the Medicare supplemental database for, at a minimum, DRG 391 (Normal Newborn). The commenter stated that non-Medicare data used for developing the weights for the five newborn DRGs do not represent average costs if some of the 19 States that supply supplemental non-Medicare data are States that perform hearing screenings on less than 90 percent of newborns. The commenter further requested that we use data only from States that have EHDI programs that are operational at the 90 percent level. The commenter provided a list of States that meet these criteria.

*Response:* While we appreciate the commenter's furnishing us with information on the costs of providing services such as hearing screenings, it would be inappropriate for us to use this one service to determine whether or not to include a State's data because the State does not provide the service at a 90-percent level. The DRG weights are based on averages. As hospitals elect to include or exclude services, the weights will change over time. Therefore, we are not developing a criterion to exclude hospital data from States that do not have a 90-percent compliance level with EHDI.

*Comment:* One commenter noted that new procedure code 75.38, Fetal pulse osimetry, was classified as a nonoperative procedure code in Table 6B of the Addendum of the proposed rule. As a nonoperative procedure, it was not assigned to an MDC or to specific DRGs. The commenter requested that we assign code 75.38 to MDC 14 (Pregnancy, Childbirth and Puerperium), and the following DRGs:

DRG 370—(Caesarean Section with CC)
DRG 371—(Caesarean Section without CC)
DRG 372—(Vaginal Delivery with Complicating Diagnosis)
DRG 373—(Vaginal Delivery without CC)

The commenter believed it was critical that the clinical benefits and use of fetal pulse oximetry be closely tracked in order to monitor clinical outcomes and to recognize potential economic advantages. The commenter acknowledged that most labor and delivery patients are not Medicare beneficiaries. However, other third party payers benchmark hospital inpatient payment rates from Medicare DRGs. The commenter stated that if code 75.38 does not contribute or link to a DRG, it is often simply not coded. The commenter further stated that fetal oximetry is an exciting and significant emerging technology and that much knowledge can be gained by understanding its usage in the context of labor and delivery services.

*Response:* The commenter requested that 75.38 be assigned to the DRGs for deliveries (DRG 370 through 373). However, these DRGs are currently assigned based on the procedure codes for the specific type of delivery (caesarian or vaginal). Adding the procedure code 75.38 to these delivery DRGs would not affect the DRG assignment. The cases would still be assigned to the appropriate DRG based on the type of delivery, not whether the baby received fetal pulse oximetry. If the commenter is suggesting that the fetal pulse oximetry code, on its own, should lead to the DRG assignment, this option is not workable. Without knowing that the mother actually delivered, and the type of delivery, one would not be able to assign the case to one of the delivery DRGs. Once one knew through the procedure codes that the mother delivered, and the type of delivery, the addition of 75.38 would not add to the DRG assignment.

The commenter did not make an argument as to why 75.38 was incorrectly classified as a nonoperating room procedure. While we appreciate the commenter's desire that this new procedure code be used, assigning the code to existing DRGs is not consistent with the structure of DRGs. Procedure codes are only assigned to DRGs when they effect the DRG assignment logic. Therefore, we are not changing the operating room status of code 75.38, nor are we adding it to the delivery DRGs. Code 75.38 will be considered a nonoperative procedure.

c. Medicare Code Editor Changes

The Medicare Code Editor (MCE) is a front-end software program that detects and reports errors in the coding of claims data. The age conflict edit detects inconsistencies between a patient's age and any diagnosis on the patient's record. A subset of diagnoses is considered valid only for patients over the age of 14 years. These diagnoses are identified as ''adult'' diagnoses and range in age from 15 through 124 years. Therefore, any codes included on the Newborn Diagnoses edit are valid only for patients under age 14.

It has come to our attention that cases including the ICD–9–CM code 770.7, Chronic respiratory disease arising in the perinatal period, are being rejected. However, a condition such as bronchopulmonary dysplasia always originates in the perinatal period, so regardless of the patient's age, this condition is always coded as 770.7. The age at which the diagnosis was established or the age at continuing treatment does not affect the assignment of code 770.7.

Because correct coding is causing these claims to be rejected, in the May 4 proposed rule we proposed to remove code 770.7 from the Newborn Diagnoses edit in the MCE, as well as remove it from DRG 387 (Prematurity with Major Problems) and DRG 389 (Full Term Neonate with Major Problems). Clinical conditions in code 770.7, such as pulmonary fibrosis, would group to DRG 92 (Interstitial Lung Disease with CC) and DRG 93 (Interstitial Lung Disease without CC). Therefore, we proposed the addition of code 770.7 to DRGs 92 and 93, as they are most similar clinically. We indicated that we would monitor these cases in upcoming MedPAR data to ascertain that the cases consume similar resources.

We received no comments on these proposals, and are, therefore, adopting the change as final.

7. MDC 20 (Alcohol/Drug Use and Alcohol/Drug-Induced Organic Mental Disorders)

DRG 434 (Alcohol/Drug Abuse or Dependency, Detoxification or Other Symptomatic Treatment with CC) is assigned when the patient has a principal diagnosis of alcohol or drug abuse or dependence along with a secondary diagnosis classified as a CC. If these patients do not have a CC, they are assigned to DRG 435 (Alcohol/Drug Abuse or Dependency, detoxification or Other Symptomatic Treatment without CC). When the patients receive rehabilitation and detoxification therapy during the stay, they are assigned to DRG 437 (Alcohol/Drug Dependence, Combined Rehabilitation and Detoxification Therapy). If the patients receive only rehabilitation therapy, they are assigned to DRG 436 (Alcohol/Drug Dependence with Rehabilitation Therapy).

We have received inquiries as to why the relative weight for DRG 437, which includes both rehabilitation and detoxification (for FY 2001, the relative weight is .6606, with a geometric mean length of stay of 7.5) is lower than the FY 2001 relative weight for DRG 434, which includes only detoxification (.7256, with a geometric mean length of stay of 3.9). Likewise, the FY 2001 relative weight for DRG 436, which includes only rehabilitation (.7433), is higher than the FY 2001 relative weight for DRG 437, which includes combined rehabilitation and detoxification therapy (.6606). The inquirers indicated that those patients receiving the combination therapy would be expected to have a longer length of stay, require more services, and, therefore, be more costly to treat.

We analyzed data from the FY 2000 MedPAR file and did not find support for the inquirers' assertion that combination therapy is more costly to treat. The relative weights indicate that the presence of a CC in DRG 434 leads to a significantly higher weight than is found in DRG 435, which does not have a CC. Therefore, we analyzed the alcohol/drug DRGs and focused on eliminating the distinction between rehabilitation and rehabilitation with detoxification and assessing the impact of CCs. We combined data on DRGs 436 and 437 and then subdivided the data based on the presence or absence of a CC. The following table contains the results of the analysis.

AVERAGE CHARGES FOR CASES—WITH AND WITHOUT CCS

| DRGS | With CC | | | Without CC | | |
|---|---|---|---|---|---|---|
| | Count | Charge | Length of stay | Count | Charge | Length of stay |
| Detoxification Cases—DRG 434 and DRG 435 | 3,298 | $8,548 | 5.0 | 9,689 | $5,111 | 4.1 |
| All Rehabilitation Cases—DRG 436 and DRG 437 | 3,298 | 8,117 | 10.1 | 4,473 | 7,407 | 9.6 |

We found that, for both the detoxification and rehabilitation DRGs, the with-CC group has higher charges than the without-CC group. However, the with-CC groups still contain the anomaly that the detoxification DRG 434 has a slightly higher average charge than the combined rehabilitation DRGs 436 and 437. It appears that any significant medical problems as indicated by the presence of a CC dominate the cost incurred by hospitals for treating alcohol and drug abuse patients. For the without-CC groups, the detoxification DRG 435 has substantially lower average charges than the combined rehabilitation DRGs 436 and 437. Because the average charges of the with-CC for both the detoxification DRG 434 and combined rehabilitation DRGs 436 and 437 have similar average charges, we proposed to combine these two groups.

Based on the results of our analysis, we proposed to restructure MDC 20 as follows. We first identified those cases with a principal diagnosis within MDC 20 where the patient left against medical advice. These cases are found in DRG 433 (Alcohol/Drug Abuse or Dependence, Left Against Medical Advice (AMA)). We next identified all remaining cases with a principal diagnosis within MDC 20 where there was a CC. We assigned these cases to a new DRG, (Alcohol/Drug Abuse or Dependence with CC). The remaining cases (without CC and did not leave against medical advice) were then divided into two new DRGs based on whether or not the patient received rehabilitation (Alcohol/Drug Abuse or Dependence without CC, with Rehabilitation Therapy; and Alcohol/Drug Abuse or Dependence without CC, without Rehabilitation Therapy).

The following table illustrates the number of patients and average charges for each of the four proposed DRGs.

FREQUENCIES AND AVERAGE CHARGES FOR NEW DRGS

| DRG | Group title | Number of cases | Average charges |
|---|---|---|---|
| 433 | Alcohol/Drug Abuse or Dependence, Left Against Medical Advice | 3,509 | $3,855 |
| 521 | Alcohol/Drug Abuse or Dependence with CC | 18,235 | 8,470 |
| 522 | Alcohol/Drug Abuse or Dependence without CC, with Rehabilitation Therapy | 4,473 | 7,407 |
| 523 | Alcohol/Drug Abuse or Dependence without CC, without Rehabilitation Therapy | 9,689 | 5,111 |

This table illustrates that groups based first on the presence of CC and then on whether or not the patient receives rehabilitation therapy provide a much better explanation of differences in charges. Therefore, we proposed to retain DRG 433, make DRGs 434 through 437 invalid, and create new DRGs 521, 522, and 523 to include the diagnosis and procedure codes reflected in Chart 7 below.

CHART 7.—RESTRUCTURE OF MDC 20 (ALCOHOL/DRUG USE AND ALCOHOL/DRUG-INDUCED ORGANIC MENTAL DISORDERS)

| Diagnosis and procedure code | Included in Existing DRG 433 | Included in DRG 521 | Included in DRG 522 | Included in DRG 523 |
|---|---|---|---|---|
| Principal diagnosis: | | | | |
| All principal diagnosis within existing MDC 20 involving cases in which patients left against medical advice (AMA) | X | | | |
| All principal diagnoses within existing MDC 20 where there is a CC and where patient did not leave against medical advice (AMA) | | X | | |
| All principal diagnoses within existing MDC 20 without CC and where patient did not leave against medical advice (AMA). | | | | |
| All principal diagnoses in existing MDC 20 without CC involving cases where patients did not leave against medical advice (AMA) | | | | X |
| Procedure Codes: | | | | |
| 94.61 Alcohol rehabilitation | | | X | |
| 94.63 Alcohol rehabilitation and detoxification | | | X | |
| 94.64 Drug rehabilitation | | | X | |
| 94.66 Drug rehabilitation and detoxification | | | X | |
| 94.67 Combined alcohol and drug rehabilitation | | | X | |
| 94.69 Combined alcohol and drug rehabilitation and detoxification | | | X | |

*Comment:* One commenter was uncertain as to the intent of the reclassification of the DRGs to identify alcohol/drug use and alcohol/drug-induced organic mental disorders. The commenter expressed concern that the cases associated with alcohol/drug use would have a lower overall weight relative to the overall average weight of these cases in FY 2001. The commenter requested further information on the impact of this change in the final rule. Additionally, the commenter recommended that the title for DRG 521 be changed from ''Alcohol/Drug Abuse or Dependence with CC'' to ''Alcohol/Drug Abuse with CC, with or without Rehabilitation Therapy.''

*Response:* As described above, for FY 2001, cases receiving combined rehabilitation and detoxification (DRG 437) had a lower relative weight than patients receiving only detoxification (DRG 434) or rehabilitation (DRG 436). Since these relative weights are derived from actual claims data, we decided to review the issue to determine if other factors had any impact. It would be expected that those patients receiving the combination therapy would have a longer length of stay, require more services, and therefore be more costly to treat. This was not supported by the data.

The factor that seems to contribute the greatest to the costs of these cases is the presence of a CC. The presence of a CC had a greater impact on the average charges than did factors such as detoxification or rehabilitation. Once the importance of this factor was determined, the cases not leaving against medical advice (DRG 433) were split on whether or not a CC was present. Those with a CC were assigned to new DRG 521. The remaining cases were then split based on whether or not rehabilitation was provided.

As can be seen from the FY 2002 relative weights in the chart below, MDC 20 patients who have a CC are considerably more expensive to treat. They have the highest relative weight among this set of DRGs. The second highest weight is assigned to MDC 20 cases without CC who also received rehabilitation services.

| DRG title | Number of of cases | Final weights |
|---|---|---|
| DRG 433 Alcohol/Drug Abuse or Dependence, Left AMA | 5,522 | .2888 |
| DRG 521 Alcohol/Drug Abuse or Dependence with CC | 28,014 | .7355 |
| DRG 522 Alcohol/Drug Abuse or Dependence without CC, with Rehabilitation Therapy | 6,852 | .6249 |
| DRG 523 Alcohol/Drug Abuse or Dependence without CC, without Rehabilitation Therapy | 14,954 | .3997 |

As can be seen from this chart, the majority of patients are assigned to DRG 521, which has the highest relative weight among the MDC 20 DRGs. As is the case for all DRGs, the relative weights reflect hospitals' actual charges submitted for bills in the FY 2000 MedPAR file. Data support the new splits based first on the presence of a CC and then on the presence of rehabilitation therapy. Therefore, we are adopting the proposed DRG classification changes as final without change.

While we appreciate the comment on modifying the title for DRG 521, we believe that it does not add to the clarity of the DRG. All MDC 20 patients who have not left AMA but who have a CC are assigned to DRG 521. The presence or absence of a code for rehabilitation therapy does not effect the DRG assignment for these cases. Therefore, we are adopting the proposed title as final without change.

8. MDC 25 (Human Immunodeficiency Virus Infections)

Effective October 1, 2000, ICD–9–CM diagnosis codes 783.2 (Abnormal loss of weight) and 783.4 (Lack of expected normal physiological development) were made invalid (65 FR 47171). These

two old diagnosis codes were expanded to five digits and the following new diagnosis codes were created:

783.21 Loss of weight
783.22 Underweight
783.40 Unspecified lack of normal physiological development
783.41 Failure to thrive
783.42 Delayed milestones
783.43 Short stature

These six revised codes were created in response to an industry request. Specifically, code 783.2 did not differentiate between whether the patient had lost weight recently or whether the patient was underweight. Code 783.4 was expanded to capture concepts such as failure to thrive, delayed milestones, and short stature. None of these concepts were captured in the old codes.

We listed these new codes in the August 1, 2000 final rule on the hospital inpatient prospective payment system in Table 6A—New Diagnosis Codes (65 FR 47169). At the time the final rule was published, all of these codes were assigned to DRGs 296 through 298. After the final rule was published, we received an inquiry as to why these new diagnosis codes were not included in MDC 25 as human immunodeficiency virus (HIV)-related conditions. The inquirer pointed out that the predecessor codes (783.2 and 783.4) were included in MDC 25 as HIV-related conditions and suggested that the new codes be added to MDC 25. These cases will be assigned to other MDCs if the patient does not have HIV.

In the proposed rule, we stated that we agreed that the expanded codes should have been placed in the MDC 25 as HIV-related conditions. The omission was an oversight. Therefore, we proposed to add diagnosis codes 783.21, 783.22, 783.40, 783.41, 783.42, and 783.43 as HIV-related conditions within MDC 25. When these six revised codes are reported with code 042 HIV, the patient will be classified within MDC 25.

*Comment:* One commenter supported the placement of codes 783.21, 783.22, 783.40, 783.41, 783.42, and 783.43, as HIV-related conditions within MDC 25.

*Response:* We appreciate the commenter's support and are adopting the proposed changes as final.

9. Surgical Hierarchies

Some inpatient stays entail multiple surgical procedures, each one of which, occurring by itself, could result in assignment of the case to a different DRG within the MDC to which the principal diagnosis is assigned. Therefore, it is necessary to have a decision rule by which these cases are assigned to a single DRG. The surgical hierarchy, an ordering of surgical classes from most resource intensive to least, performs that function. Its application ensures that cases involving multiple surgical procedures are assigned to the DRG associated with the most resource-intensive surgical class.

Because the relative resource intensity of surgical classes can shift as a function of DRG reclassification and recalibration, we reviewed the surgical hierarchy of each MDC, as we have for previous reclassifications, to determine if the ordering of classes coincided with the intensity of resource utilization, as measured by the same billing data used to compute the DRG relative weights.

A surgical class can be composed of one or more DRGs. For example, in MDC 11, the surgical class ''kidney transplant'' consists of a single DRG (DRG 302) and the class ''kidney, ureter and major bladder procedures'' consists of three DRGs (DRGs 303, 304, and 305). Consequently, in many cases, the surgical hierarchy has an impact on more than one DRG. The methodology for determining the most resource-intensive surgical class involves weighting each DRG for frequency to determine the average resources for each surgical class. For example, assume surgical class A includes DRGs 1 and 2 and surgical class B includes DRGs 3, 4, and 5. Assume also that the average charge of DRG 1 is higher than that of DRG 3, but the average charges of DRGs 4 and 5 are higher than the average charge of DRG 2. To determine whether surgical class A should be higher or lower than surgical class B in the surgical hierarchy, we would weight the average charge of each DRG by frequency (that is, by the number of cases in the DRG) to determine average resource consumption for the surgical class. The surgical classes would then be ordered from the class with the highest average resource utilization to that with the lowest, with the exception of ''other OR procedures'' as discussed below.

This methodology may occasionally result in a case involving multiple procedures being assigned to the lower-weighted DRG (in the highest, most resource-intensive surgical class) of the available alternatives. However, given that the logic underlying the surgical hierarchy provides that the GROUPER searches for the procedure in the most resource-intensive surgical class, this result is unavoidable.

We note that, notwithstanding the foregoing discussion, there are a few instances when a surgical class with a lower average relative weight is ordered above a surgical class with a higher average relative weight. For example, the ''other OR procedures'' surgical class is uniformly ordered last in the surgical hierarchy of each MDC in which it occurs, regardless of the fact that the relative weight for the DRG or DRGs in that surgical class may be higher than that for other surgical classes in the MDC. The ''other OR procedures'' class is a group of procedures that are least likely to be related to the diagnoses in the MDC but are occasionally performed on patients with these diagnoses. Therefore, these procedures should only be considered if no other procedure more closely related to the diagnoses in the MDC has been performed.

A second example occurs when the difference between the average weights for two surgical classes is very small. We have found that small differences generally do not warrant reordering of the hierarchy since, by virtue of the hierarchy change, the relative weights are likely to shift such that the higher-ordered surgical class has a lower average weight than the class ordered below it.

Based on the preliminary recalibration of the DRGs, we proposed the modification of the surgical hierarchy as set forth below. As we stated in the September 1, 1989 final rule (54 FR 36457), we are unable to test the effects of proposed revisions to the surgical hierarchy and to reflect these changes in the proposed relative weights due to the unavailability of the revised GROUPER software at the time the proposed rule is prepared. Rather, we simulate most major classification changes to approximate the placement of cases under the proposed reclassification and then determine the average charge for each DRG. These average charges then serve as our best estimate of relative resource use for each surgical class. We test the proposed surgical hierarchy changes after the revised GROUPER is received and reflect the final changes in the DRG relative weights in the final rule. Further, as discussed in section II.C. of this preamble, we anticipate that the final recalibrated weights will be somewhat different from those proposed, because they will be based on more complete data. Consequently, in the proposed rule we stated that further revision of the hierarchy, using the above principles, might be necessary in the final rule.

In the May 4 proposed rule, we proposed to revise the surgical hierarchy for the pre-MDC DRGs, MDC 5 (Diseases and Disorders of the Circulatory System), MDC 8 (Diseases

and Disorders of the Musculoskeletal System & Connective Tissue) and MDC 20 (Alcohol/Drug Use & Alcohol/Drug Induced-Organic Mental Disorders) as follows:

- In the pre-MDC DRGs, we proposed to reorder Lung Transplant (DRG 495) above Bone Marrow Transplant (DRG 481). We also proposed to reorder Simultaneous Pancreas/Kidney Transplant (DRG 512) and Pancreas Transplant (DRG 513) above Lung Transplant (DRG 495).
- In MDC 5, we proposed to reorder Cardiac Defibrillator Implants (DRGs 514 and 515) above Other Cardiothoracic Procedures (DRG 108). We also proposed to reorder Percutaneous Cardiovascular Procedures (DRGs 516, 517, and 518) above Other Vascular Procedures (DRGs 478 and 479).
- In MDC 8, we proposed to reorder Cervical Spinal Fusion (DRGs 519 and 520) above Back & Neck Procedures Except Spinal Fusion (DRGs 499 and 500).
- In MDC 20, we proposed to order as follows: Alcohol/Drug Abuse or Dependence, Left AMA (DRG 433) above Alcohol/Drug Abuse or Dependence With CC (DRG 521); Alcohol/Drug Abuse or Dependence With CC (DRG 521) above Alcohol/Drug Abuse or Dependence With Rehabilitation Therapy Without CC (DRG 522); and Alcohol/Drug Abuse or Dependence With Rehabilitation Therapy Without CC (DRG 522) above Alcohol/Drug Abuse or Dependence Without Rehabilitation Therapy Without CC (DRG 523).

*Comment:* One commenter expressed support for hierarchy proposals.

*Response:* We appreciate the commenter's support. Based on a test of the proposed revisions using the March 2001 update of the FY 2000 MedPAR file and the revised GROUPER software, we have found that the revisions are still supported by the data, and no additional changes are indicated. Therefore, we are adopting these proposed changes as final.

10. Refinement of Complications and Comorbidities (CC) List

In the September 1, 1987 final notice (52 FR 33143) concerning changes to the DRG classification system, we modified the GROUPER logic so that certain diagnoses included on the standard list of CCs would not be considered a valid CC in combination with a particular principal diagnosis. Thus, we created the CC Exclusions List. We made these changes for the following reasons: (1) to preclude coding of CCs for closely related conditions; (2) to preclude duplicative coding or inconsistent coding from being treated as CCs; and (3) to ensure that cases are appropriately classified between the complicated and uncomplicated DRGs in a pair. We developed this standard list of diagnoses using physician panels to include those diagnoses that, when present as a secondary condition, would be considered a substantial complication or comorbidity. In previous years, we have made changes to the standard list of CCs, either by adding new CCs or deleting CCs already on the list. We stated in the proposed rule that we did not propose to delete any of the diagnosis codes on the CC list at that time.

In the May 19, 1987 proposed notice (52 FR 18877) concerning changes to the DRG classification system, we explained that the excluded secondary diagnoses were established using the following five principles:

- Chronic and acute manifestations of the same condition should not be considered CCs for one another (as subsequently corrected in the September 1, 1987 final notice (52 FR 33154)).
- Specific and nonspecific (that is, not otherwise specified (NOS)) diagnosis codes for a condition should not be considered CCs for one another.
- Conditions that may not coexist, such as partial/total, unilateral/bilateral, obstructed/unobstructed, and benign/malignant, should not be considered CCs for one another.
- The same condition in anatomically proximal sites should not be considered CCs for one another.
- Closely related conditions should not be considered CCs for one another.

The creation of the CC Exclusions List was a major project involving hundreds of codes. The FY 1988 revisions were intended only as a first step toward refinement of the CC list in that the criteria used for eliminating certain diagnoses from consideration as CCs were intended to identify only the most obvious diagnoses that should not be considered complications or comorbidities of another diagnosis. For that reason, and in light of comments and questions on the CC list, we have continued to review the remaining CCs to identify additional exclusions and to remove diagnoses from the master list that have been shown not to meet the definition of a CC. (See the September 30, 1988 final rule (53 FR 38485) for the revision made for the discharges occurring in FY 1989; the September 1, 1989 final rule (54 FR 36552) for the FY 1990 revision; the September 4, 1990 final rule (55 FR 36126) for the FY 1991 revision; the August 30, 1991 final rule (56 FR 43209) for the FY 1992 revision; the September 1, 1992 final rule (57 FR 39753) for the FY 1993 revision; the September 1, 1993 final rule (58 FR 46278) for the FY 1994 revisions; the September 1, 1994 final rule (59 FR 45334) for the FY 1995 revisions; the September 1, 1995 final rule (60 FR 45782) for the FY 1996 revisions; the August 30, 1996 final rule (61 FR 46171) for the FY 1997 revisions; the August 29, 1997 final rule (62 FR 45966) for the FY 1998 revisions; the July 31, 1998 final rule (63 FR 40954) for the FY 1999 revisions, and the August 1, 2000 final rule (65 FR 47064) for the FY 2001 revisions.) In the July 30, 1999 final rule (64 FR 41490) we did not modify the CC Exclusions List for FY 2000 because we did not make any changes to the ICD–9–CM codes for FY 2000.

In this final rule, we are making a limited revision of the CC Exclusions List to take into account the changes that will be made in the ICD–9–CM diagnosis coding system effective October 1, 2001. (See section II.B.11. below, for a discussion of ICD–9–CM changes.) These changes are being made in accordance with the principles established when we created the CC Exclusions List in 1987.

Tables 6F and 6G in section V. of the Addendum to this final rule contain the revisions to the CC Exclusions List that will be effective for discharges occurring on or after October 1, 2001. Each table shows the principal diagnoses with changes to the excluded CCs. Each of these principal diagnoses is shown with an asterisk, and the additions or deletions to the CC Exclusions List are provided in an indented column immediately following the affected principal diagnosis.

CCs that are added to the list are in Table 6G—Additions to the CC Exclusions List. Beginning with discharges on or after October 1, 2001, the indented diagnoses will not be recognized by the GROUPER as valid CCs for the asterisked principal diagnosis.

CCs that are deleted from the list are in Table 6H—Deletions from the CC Exclusions List. Beginning with discharges on or after October 1, 2001, the indented diagnoses will be recognized by the GROUPER as valid CCs for the asterisked principal diagnosis.

Copies of the original CC Exclusions List applicable to FY 1988 can be obtained from the National Technical Information Service (NTIS) of the Department of Commerce. It is available in hard copy for $133.00 plus shipping and handling. A request for the FY 1988 CC Exclusions List (which should

include the identification accession number (PB) 88–133970) should be made to the following address: National Technical Information Service, United States Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161; or by calling (800) 553–6847.

Users should be aware of the fact that all revisions to the CC Exclusions List (FYs 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, and 1999) and those in Tables 6F and 6G of this document must be incorporated into the list purchased from NTIS in order to obtain the CC Exclusions List applicable for discharges occurring on or after October 1, 2001. (Note: There was no CC Exclusions List in FY 2000 because we did not make changes to the ICD–9–CM codes for FY 2000.)

Alternatively, the complete documentation of the GROUPER logic, including the current CC Exclusions List, is available from 3M/Health Information Systems (HIS), which, under contract with CMS, is responsible for updating and maintaining the GROUPER program. The current DRG Definitions Manual, Version 18.0, is available for $225.00, which includes $15.00 for shipping and handling. Version 19.0 of this manual, which includes the final FY 2002 DRG changes, will be available in October 2001 for $225.00. These manuals may be obtained by writing 3M/HIS at the following address: 100 Barnes Road, Wallingford, CT 06492; or by calling (203) 949–0303. Please specify the revision or revisions requested.

11. Review of Procedure Codes in DRGs 468, 476, and 477

Each year, we review cases assigned to DRG 468 (Extensive OR Procedure Unrelated to Principal Diagnosis), DRG 476 (Prostatic OR Procedure Unrelated to Principal Diagnosis), and DRG 477 (Nonextensive OR Procedure Unrelated to Principal Diagnosis) to determine whether it would be appropriate to change the procedures assigned among these DRGs.

DRGs 468, 476, and 477 are reserved for those cases in which none of the OR procedures performed are related to the principal diagnosis. These DRGs are intended to capture atypical cases, that is, those cases not occurring with sufficient frequency to represent a distinct, recognizable clinical group. DRG 476 is assigned to those discharges in which one or more of the following prostatic procedures are performed and are unrelated to the principal diagnosis:

60.0 Incision of prostate
60.12 Open biopsy of prostate
60.15 Biopsy of periprostatic tissue
60.18 Other diagnostic procedures on prostate and periprostatic tissue
60.21 Transurethral prostatectomy
60.29 Other transurethral prostatectomy
60.61 Local excision of lesion of prostate
60.69 Prostatectomy NEC
60.81 Incision of periprostatic tissue
60.82 Excision of periprostatic tissue
60.93 Repair of prostate
60.94 Control of (postoperative) hemorrhage of prostate
60.95 Transurethral balloon dilation of the prostatic urethra
60.99 Other operations on prostate

All remaining OR procedures are assigned to DRGs 468 and 477, with DRG 477 assigned to those discharges in which the only procedures performed are nonextensive procedures that are unrelated to the principal diagnosis. The original list of the ICD–9–CM procedure codes for the procedures we consider nonextensive procedures, if performed with an unrelated principal diagnosis, was published in Table 6C in section IV. of the Addendum to the September 30, 1988 final rule (53 FR 38591). As part of the final rules published on September 4, 1990 (55 FR 36135), August 30, 1991 (56 FR 43212), September 1, 1992 (57 FR 23625), September 1, 1993 (58 FR 46279), September 1, 1994 (59 FR 45336), September 1, 1995 (60 FR 45783), August 30, 1996 (61 FR 46173), and August 29, 1997 (62 FR 45981), we moved several other procedures from DRG 468 to 477, and some procedures from DRG 477 to 468. No procedures were moved in FY 1999, as noted in the July 31, 1998 final rule (63 FR 40962); in FY 2000, as noted in the July 30, 1999 final rule (64 FR 41496); or in FY 2001, as noted in the August 1, 2000 final rule (65 FR 47064).

a. Moving Procedure Codes From DRGs 468 or 477 to MDCs

We annually conduct a review of procedures producing assignment to DRG 468 or DRG 477 on the basis of volume, by procedure, to see if it would be appropriate to move procedure codes out of these DRGs into one of the surgical DRGs for the MDC into which the principal diagnosis falls. The data are arrayed two ways for comparison purposes. We look at a frequency count of each major operative procedure code. We also compare procedures across MDCs by volume of procedure codes within each MDC.

Our medical consultants identified those procedures occurring in conjunction with certain principal diagnoses with sufficient frequency to justify adding them to one of the surgical DRGs for the MDC in which the diagnosis falls. Based on this year's review, we did not identify any necessary changes in procedures under DRG 477 and, therefore, we did not propose to move any procedures from DRG 477 to one of the surgical DRGs. However, our medical consultants have identified a number of procedure codes that should be removed from DRG 468 and put into more clinically coherent DRGs. The movements of these codes are specified in the charts below:

MOVEMENT OF PROCEDURE CODES FROM DRG 468

| Procedure code | Description | Included in DRG | Description |
|---|---|---|---|
| **MDC 1—Diseases and Disorders of the Nervous System** | | | |
| 5495 | Peritoneal Incision | 7 | Peripheral and Cranial Nerve and Other Nervous System Procedures with CC. |
| 5495 | Peritoneal Incision | 8 | Peripheral and Cranial Nerve and Other Nervous System Procedures without CC. |
| **MDC 3—Diseases and Disorders of the Ear** | | | |
| 3821 | Blood Vessel Biopsy | 63 | Other Ear, Nose, Mouth and Throat OR Procedure. |
| **MDC 4—Diseases and Disorders of the Respiratory System** | | | |
| 3821 | Blood Vessel Biopsy | 76 | Other Respiratory System OR Procedures with CC. |

MOVEMENT OF PROCEDURE CODES FROM DRG 468—Continued

| Procedure code | Description | Included in DRG | Description |
|---|---|---|---|
| 3821 | Blood Vessel Biopsy | 77 | Other Respiratory System OR Procedures with CC. |
| 3929 | Vascular Shunt & Bypass NEC | 76 | Other Respiratory System OR Procedures with CC. |
| 3929 | Vascular Shunt & Bypass NEC | 77 | Other Respiratory System OR Procedures with CC. |
| 3931 | Suture of Artery | 76 | Other Respiratory System OR Procedures with CC. |
| 3931 | Suture of Artery | 77 | Other Respiratory System OR Procedures with CC. |
| 5411 | Exploratory Laparotomy | 76 | Other Respiratory System OR Procedures with CC. |
| 5411 | Exploratory Laparotomy | 77 | Other Respiratory System OR Procedures with CC. |
| 7749 | Bone Biopsy NEC | 76 | Other Respiratory System OR Procedures with CC. |
| 7749 | Bone Biopsy NEC | 77 | Other Respiratory System OR Procedures with CC. |
| 8669 | Free Skin Graft NEC | 76 | Other Respiratory System OR Procedures with CC. |
| 8669 | Free Skin Graft NEC | 77 | Other Respiratory System OR Procedures with CC. |
| **MDC 5—Diseases and Disorders of the Circulatory System** | | | |
| 3402 | Exploratory Thoracotomy | 120 | Other Circulatory System OR Procedures. |
| 3403 | Reopen Thoractomy Site | 120 | Other Circulatory System OR Procedures. |
| 3421 | Transpleura Thoracoscopy | 120 | Other Circulatory System OR Procedures. |
| 3422 | Mediastinoscopy | 120 | Other Circulatory System OR Procedures. |
| 3426 | Open Mediastinal Biopsy | 120 | Other Circulatory System OR Procedures. |
| 436 | Distal Gastrectomy | 120 | Other Circulatory System OR Procedures. |
| 437 | Partial Gastrectomy with Jejunal Anastomosis | 120 | Other Circulatory System OR Procedures. |
| 4389 | Partial Gastrectomy | 120 | Other Circulatory System OR Procedures. |
| 4399 | Total Gastrectomy | 120 | Other Circulatory System OR Procedures. |
| 4561 | Multiple Segment Small Bowel Excision | 120 | Other Circulatory System OR Procedures. |
| 4562 | Partial Small Bowel Resection NEC | 120 | Other Circulatory System OR Procedures. |
| 4572 | Cecectomy | 120 | Other Circulatory System OR Procedures. |
| 4573 | Right Hemicolectomy | 120 | Other Circulatory System OR Procedures. |
| 4574 | Transverse Colon Resection | 120 | Other Circulatory System OR Procedures. |
| 4575 | Left Hemicolectomy | 120 | Other Circulatory System OR Procedures. |
| 4579 | Partial Large Bowel Excision NEC | 120 | Other Circulatory System OR Procedures. |
| 458 | Total Intra-Abdominal Colectomy | 120 | Other Circulatory System OR Procedures. |
| 4593 | Small-to-Large Bowel NEC | 120 | Other Circulatory System OR Procedures. |
| 4603 | Large Bowel Exteriorization | 120 | Other Circulatory System OR Procedures. |
| 4613 | Permanent Colostomy | 120 | Other Circulatory System OR Procedures. |
| 4709 | Other Appendectomy | 120 | Other Circulatory System OR Procedures. |
| 4862 | Anterior Rectal Resection With Colostomy | 120 | Other Circulatory System OR Procedures. |
| 4863 | Anterior Rectal Resection NEC | 120 | Other Circulatory System OR Procedures. |
| 4869 | Rectal Resection | 120 | Other Circulatory System OR Procedures. |
| 5012 | Open Liver Biopsy | 120 | Other Circulatory System OR Procedures. |
| 540 | Abdominal Wall Incision | 120 | Other Circulatory System OR Procedures. |
| **MDC 6—Diseases and Disorders of the Digestive System** | | | |
| 5122 | Cholecystectomy | 170 | Other Digestive System OR Procedures with CC. |
| 5122 | Cholecystectomy | 171 | Other Digestive System OR Procedures without CC. |
| 5123 | Laparoscopic Cholecystectomy | 170 | Other Digestive System OR Procedures with CC. |
| 5132 | GB-To-Intestine Anastomosis | 170 | Other Digestive System OR Procedures with CC. |
| 5136 | Choledochoenterostomy | 170 | Other Digestive System OR Procedures with CC. |
| 5136 | Choledochoenterostomy | 171 | Other Digestive System OR Procedures without CC. |
| 5137 | Hepatic Duct-GI Anastomosis | 170 | Other Digestive System OR Procedures with CC. |
| 5137 | Hepatic Duct-GI Anastomosis | 171 | Other Digestive System OR Procedures without CC. |
| 5159 | Bile Duct Incision NEC | 170 | Other Digestive System OR Procedures with CC. |
| 5159 | Bile Duct Incision NEC | 171 | Other Digestive System OR Procedures without CC. |
| **MDC 7—Diseases and Disorders of the Hepatobiliary System and Pancreas** | | | |
| 540 | Abdominal Wall Incision | 201 | Other Heptobiliary and Pancreas Procedure. |
| **MDC 8—Diseases and Disorders of the Musculoskeletal System and Connective Tissue** | | | |
| 3479 | Other Chest Wall Repair | 233 | Other Musculoskeletal System & Connective Tissue OR Procedure with CC. |
| 3479 | Other Chest Wall Repair | 234 | Other Musculoskeletal System & Connective Tissue OR Procedure with CC. |
| **MDC 11—Diseases and Disorders of the Kideny and Urinary Tract** | | | |
| 540 | Abdominal Wall Incision | 315 | Other Kidney & Urinary Tract OR Procedure. |
| 5451 | Laparoscopic Periton Adhesiolysis | 315 | Other Kidney & Urinary Tract OR Procedure. |
| 5459 | Other Periton Adhesiolysis | 315 | Other Kidney & Urinary Tract OR Procedure. |

b. Reassignment of Procedures among DRGs 468, 476, and 477

We also annually review the list of ICD–9–CM procedures that, when in combination with their principal diagnosis code, result in assignment to DRGs 468, 476, and 477, to ascertain if any of those procedures should be moved from one of these DRGs to another of these DRGs based on average charges and length of stay. We look at the data for trends such as shifts in treatment practice or reporting practice that would make the resulting DRG assignment illogical. If our medical consultants were to find these shifts, we would propose moving cases to keep the DRGs clinically similar or to provide payment for the cases in a similar manner. Generally, we move only those procedures for which we have an adequate number of discharges to analyze the data. Based on our review this year, we did not propose to move any procedures from DRG 468 to DRGs 476 or 477, from DRG 476 to DRGs 468 or 477, or from DRG 477 to DRGs 468 or 476.

c. Adding Diagnosis Codes to MDCs

Based on our review this year, we did not propose to add any diagnosis codes to MDCs.

We received one comment in support of the proposed changes to the procedure codes in DRG 468, 476, and 477. In this final rule, we are adopting these proposed changes without further modification.

12. Changes to the ICD–9–CM Coding System

As described in section II.B.1. of this preamble, the ICD–9–CM is a coding system that is used for the reporting of diagnoses and procedures performed on a patient. In September 1985, the ICD–9–CM Coordination and Maintenance Committee was formed. This is a Federal interdepartmental committee, co-chaired by the National Center for Health Statistics (NCHS) and CMS, charged with maintaining and updating the ICD–9–CM system. The Committee is jointly responsible for approving coding changes, and developing errata, addenda, and other modifications to the ICD–9–CM to reflect newly developed procedures and technologies and newly identified diseases. The Committee is also responsible for promoting the use of Federal and non-Federal educational programs and other communication techniques with a view toward standardizing coding applications and upgrading the quality of the classification system.

The NCHS has lead responsibility for the ICD–9–CM diagnosis codes included in the *Tabular List* and *Alphabetic Index for Diseases*, while CMS has lead responsibility for the ICD–9–CM procedure codes included in the *Tabular List* and *Alphabetic Index for Procedures.*

The Committee encourages participation in the above process by health-related organizations. In this regard, the Committee holds public meetings for discussion of educational issues and proposed coding changes. These meetings provide an opportunity for representatives of recognized organizations in the coding field, such as the American Health Information Management Association (AHIMA) (formerly American Medical Record Association (AMRA)), the American Hospital Association (AHA), and various physician specialty groups as well as physicians, medical record administrators, health information management professionals, and other members of the public to contribute ideas on coding matters. After considering the opinions expressed at the public meetings and in writing, the Committee formulates recommendations, which then must be approved by the agencies.

The Committee presented proposals for coding changes for implementation in FY 2002 at public meetings held on May 11, 2000 and November 17, 2000, and finalized the coding changes after consideration of comments received at the meetings and in writing by January 08, 2001.

Copies of the Coordination and Maintenance Committee minutes of the 2000 meetings can be obtained from the CMS home page at: http://www.hcfa.gov/medicare/icd9cm.htm. Paper copies of these minutes are no longer available and the mailing list has been discontinued. We encourage commenters to address suggestions on coding issues involving diagnosis codes to: Donna Pickett, Co-Chairperson; ICD–9–CM Coordination and Maintenance Committee; NCHS; Room 1100; 6525 Belcrest Road; Hyattsville, MD 20782. Comments may be sent by E-mail to: dfp4@cdc.gov.

Questions and comments concerning the procedure codes should be addressed to: Patricia E. Brooks, Co-Chairperson; ICD–9–CM Coordination and Maintenance Committee; CMS, Center for Medicare Management, Purchasing Policy Group, Division of Acute Care; C4–07–07; 7500 Security Boulevard; Baltimore, MD 21244–1850. Comments may be sent by E-mail to: pbrooks@cms.hhs.gov.

The ICD–9–CM code changes that have been approved will become effective October 1, 2001. The new ICD–9–CM codes are listed, along with their DRG classifications, in Tables 6A and 6B (New Diagnosis Codes and New Procedure Codes, respectively) in section V. of the Addendum to this final rule. As we stated above, the code numbers and their titles were presented for public comment at the ICD–9–CM Coordination and Maintenance Committee meetings. Both oral and written comments were considered before the codes were approved. In the proposed rule, we solicited comments only on the proposed DRG classification of these new codes.

Further, the Committee has approved the expansion of certain ICD–9–CM codes to require an additional digit for valid code assignment. Diagnosis codes that have been replaced by expanded codes or other codes or have been deleted are in Table 6C (Invalid Diagnosis Codes). These invalid diagnosis codes will not be recognized by the GROUPER beginning with discharges occurring on or after October 1, 2001. For codes that have been replaced by new or expanded codes, the corresponding new or expanded diagnosis codes are included in Table 6A (New Diagnosis Codes). New procedure codes are shown in Table 6B. Table 6C contains invalid diagnosis codes, and Table 6D contains invalid procedure codes. Revisions to diagnosis code titles are in Table 6E (Revised Diagnosis Code Titles), which also include the DRG assignments for these revised codes. Revisions to procedure code titles are in Table 6F (Revised Procedure Codes Titles).

In September 2000, the Department implemented a policy of paying for inpatient hospital stays for Medicare beneficiaries participating in clinical trials (HCFA Program Memorandum AB 00–89, September 19, 2000). Hospitals were encouraged to identify the patients involved by reporting an ICD–9–CM code. This would allow the examination of data on the patients involved in clinical trials. However, there was no clear ICD–9–CM diagnosis code for patients who took part in a clinical trial. There was a code for patients receiving an examination as part of the control group for clinical trials. This control group code was V70.7 (Examination for normal comparison or control in clinical research). Hospitals were instructed to use V70.5 (Health examination of defined subpopulations), for patients participating in a clinical trial.

This coding directive has created some confusion because of the title and description of the two codes. Hospitals also have requested that all clinical patients be captured under one code. They indicated that the use of one code

would be especially useful because patients frequently do not know if they are part of the control group or are receiving new therapy.

To help alleviate the confusion, the ICD–9–CM Coordination and Maintenance Committee revised code V70.7. Effective October 1, 2001, the new title of code V70.7 is ''Examination of patient in clinical trial.'' This revision will make it easier to capture data on Medicare beneficiaries who are participating in a clinical trial.

*Comment:* One commenter questioned the DRG assignment of 525.12 (Loss of teeth due to periodontal disease) listed in Table 6A of the Addendum of the proposed rule. Table 6A in the proposed rule listed the proposed DRG assignments within MDC 3 for this new code as DRGs 182, 183, and 184. The commenter stated that the DRG assignments within MDC 3 should actually be DRGs 185, 186, and 187, since these were the DRGs used for its predecessor code, 525.1. The commenter also pointed out that the other new codes within this category (525.10–525.19) were assigned to DRGs 185, 186, and 187.

*Response:* The commenter is correct. We are assigning code 525.12 to DRGs 185, 186, and 187 within MDC 3. This is consistent with the way the other codes in the new category were assigned. In this final rule, we are correcting Table 6A to show that 525.12 is assigned to DRGs 185, 186, and 187 within MDC 3.

13. Other Issues

a. Pancreas Transplant

Effective July 1, 1999, Medicare covers whole organ pancreas transplantation if the transplantation is performed simultaneously with or after a kidney transplant (procedure codes 55.69 (Other kidney transplantation), or diagnosis code V42.0 (Organ or tissue replaced by transplant, Kidney), along with 52.80 (Pancreatic transplant, not otherwise specified), or 52.82 (Homotransplant of pancreas)). A discussion of the history of these coverage decisions and codes can be found in the August 1, 2000 final rule on the prospective payment system for FY 2001 (65 FR 47067).

We discussed the appropriate DRG classification for these cases in both the July 30, 1999 final rule (64 FR 41497) and the August 1, 2000 final rule (65 FR 47067). Currently, cases can be assigned to one of two major DRGs depending on principal diagnosis. If a kidney transplant and a pancreas transplant are performed simultaneously on a patient with chronic renal failure secondary to diabetes with renal manifestations (diagnosis codes 250.40 through 250.43), the cases will be assigned to DRG 302 (Kidney Transplant). If a pancreas transplant is performed following a kidney transplant (during a different hospital admission) on a patient with chronic renal failure secondary to diabetes with renal manifestations, the case is assigned to DRG 468 (Extensive OR Procedure Unrelated to Principal Diagnosis). This is because pancreas transplant is not assigned to MDC 11 (Diseases and Disorders of the Kidney and Urinary Tract), the MDC to which a principal diagnosis of chronic renal failure secondary to diabetes is assigned.

In the August 1, 2000 final rule, we noted that we would continue to monitor these transplant cases to determine the appropriateness of establishing a new DRG. For the May 4 proposed rule, using data in the FY 2000 MedPAR file (updated through May 31, 2000), we analyzed the cases for which procedure codes 52.80 and 52.82 were reported. (Our data showed that 15 of the cases were coded using 52.83 (Heterotransplant of pancreas), which is not a covered procedure under any circumstances.) We identified a total of 221 cases for this time period. The United Network for Organ Sharing (UNOS) reported it had identified 270 cases through September 2000.

These 221 MedPAR cases were distributed over 6 DRGs, with the majority (158 cases or 72 percent) assigned to DRG 302, and 23 cases (10 percent) assigned to DRG 468. The remaining 40 cases were distributed between 4 other DRGs, with the majority (25 cases) being assigned to DRG 292 (Other Endocrine, Nutritional and Metabolic OR Procedures with CC). Four cases were assigned to DRG 483 (Tracheostomy with Principal Diagnosis except Face, Mouth and Neck Diagnoses) in the Pre-MDC grouping, which took precedence over any other DRG assignment.

We arrayed the data based on the presence or absence of kidney transplant; that is, pancreas transplant codes with or without 55.69. The majority of cases (166 or 75 percent) had the combined kidney-pancreas transplant in one operative episode, with 55 (25 percent) of the cases having pancreas transplant subsequent to the kidney transplant. Differences in hospital charges were significantly higher for a pancreas transplant plus a kidney transplant ($138,809) than a pancreas transplant alone ($85,972), and both were higher than average standardized charges in DRG 302 ($64,760) or DRG 468 ($39,707), although it must be noted that these figures do reflect the resource intensive patients assigned to DRG 483. Those patients in DRG 483 had average standardized charges of $377,934.

Because these categories of patients do not fit into existing DRGs from either a clinical or resource perspective, in the May 4 proposed rule, we proposed to create two new DRGs that would reflect these patients' unique clinical profiles: DRG 512 (Simultaneous Pancreas/Kidney Transplant) and DRG 513 (Pancreas Transplants). Cases grouped to either DRGs 512 or 513 must have a principal or secondary diagnosis code and procedure code or combination of procedure codes as indicated in the chart below:

COMPOSITION OF PROPOSED DRGS 512 AND 513

| Diagnosis and procedure codes | Included in DRG 512 | Included in DRG 513 |
|---|---|---|
| Principal or Secondary ICD–9–CM Diabetes Mellitus Code: | | |
| 250.00 Diabetes mellitus without mention of complication, Type II or unspecified type, not as stated as uncontrolled | X | X |
| 250.01 Diabetes mellitus without mention of complication, Type I, not stated as uncontrolled | X | X |
| 250.02 Diabetes mellitus without mention of complication, Type II or unspecified type, uncontrolled | X | X |
| 250.03 Diabetes mellitus without mention of complication, Type I, uncontrolled | X | X |
| 250.10 Diabetes with ketoacidosis, Type II or Unspecified type, not stated as uncontrolled | X | X |
| 250.11 Diabetes with ketoacidosis, Type I, not stated as uncontrolled | X | X |
| 250.12 Diabetes with ketoacidosis, Type II or unspecified type, uncontrolled | X | X |
| 250.13 Diabetes with ketoacidosis, Type I, controlled | X | X |
| 250.20 Diabetes with hyperosmolarity, Type II or unspecified type, not stated as uncontrolled | X | X |
| 250.21 Diabetes with hyperosmolarity, Type I, not stated as uncontrolled | X | X |

COMPOSITION OF PROPOSED DRGS 512 AND 513—Continued

| Diagnosis and procedure codes | Included in DRG 512 | Included in DRG 513 |
|---|---|---|
| 250.22 Diabetes with hyperosmolarity, Type II or unspecified type, uncontrolled | X | X |
| 250.23 Diabetes with hyperosmolarity, Type I, uncontrolled | X | X |
| 250.30 Diabetes with other coma, Type II or unspecified type, not stated as uncontrolled | X | X |
| 250.31 Diabetes with other coma, Type I, not stated as uncontrolled | X | X |
| 250.32 Diabetes with other coma, Type II or unspecified type, uncontrolled | X | X |
| 250.33 Diabetes with other coma, Type I, uncontrolled | X | X |
| 250.40 Diabetes with renal manifestations, Type II or unspecified type, not stated as uncontrolled | X | X |
| 250.41 Diabetes with renal manifestations, Type I, not stated as uncontrolled | X | X |
| 250.42 Diabetes with renal manifestations, Type II or unspecified type, uncontrolled | X | X |
| 250.43 Diabetes with renal manifestations, Type I, uncontrolled | X | X |
| 250.50 Diabetes with ophthalmic manifestations, Type II or unspecified type, not stated as uncontrolled | X | X |
| 250.51 Diabetes with ophthalmic manifestations, Type I, not stated as uncontrolled | X | X |
| 250.52 Diabetes with ophthalmic manifestations, Type II or unspecified type, uncontrolled | X | X |
| 250.53 Diabetes with ophthalmic manifestations, Type I, uncontrolled | X | X |
| 250.60 Diabetes with neurological manifestations, Type II or unspecified type, not stated as uncontrolled | X | X |
| 250.61 Diabetes with neurological manifestations, Type I, not stated as uncontrolled | X | X |
| 250.62 Diabetes with neurological manifestations, Type II or unspecified type, uncontrolled | X | X |
| 250.63 Diabetes with neurological manifestations, Type I uncontrolled | X | X |
| 250.70 Diabetes with peripheral circulatory disorders, Type II or unspecified type, not stated as uncontrolled | X | X |
| 250.71 Diabetes with peripheral circulatory disorders, Type I, not stated as uncontrolled | X | X |
| 250.72 Diabetes with peripheral circulatory disorders, Type II or unspecified type, uncontrolled | X | X |
| 250.73 Diabetes with peripheral circulatory disorders, Type I, uncontrolled | X | X |
| 250.80 Diabetes with other specified manifestations, Type II or unspecified type, not stated as uncontrolled | X | X |
| 250.81 Diabetes with other specified manifestations, Type I, not states as uncontrolled | X | X |
| 250.82 Diabetes with other specified manifestations, Type II or unspecified type, uncontrolled | X | X |
| 250.83 Diabetes with other specified manifestations, Type I, uncontrolled | X | X |
| 250.90 Diabetes with unspecified complication, Type II or unspecified type, not states as uncontrolled | X | X |
| 250.91 Diabetes with unspecified complication, Type I, not stated as uncontrolled | X | X |
| 250.92 Diabetes with unspecified complication, Type II or unspecified type, uncontrolled | X | X |
| 250.93 Diabetes with unspecified complication, Type I, uncontrolled | X | X |
| Principal or Secondary Diagnosis Code: | | |
| 585 Chronic renal failure. | X | X |
| 403.01 Hypertensive renal disease, malignant, with renal failure | X | X |
| 403.11 Hypertensive renal disease, benign, with renal failure | X | X |
| 403.91 Hypertensive renal disease, unspecified, with renal failure | X | X |
| 404.02 Hypertensive heart & renal disease, malignant, with renal failure | X | X |
| 404.03 Hypertensive heart & renal disease, malignant, with congestive heart failure and renal disease | X | X |
| 404.12 Hypertensive heart & renal disease, benign, with renal failure | X | X |
| 404.13 Hypertensive heart & renal disease, benign, with congestive heart failure and renal disease | X | X |
| 404.92 Hypertensive heart & renal disease, unspecified, with renal failure | X | X |
| 404.93 Hypertensive heart & renal disease, unspecified, with congestive heart failure and renal failure | X | X |
| V42.0 Organ or tissue replaced by transplant, kidney | X | X |
| V43.89 Organ or tissue replaced by other means, other (Kidney) | X | X |
| Procedure Code: | | |
| 52.80 Pancreatic transplant, not otherwise specified | ..... | X |
| 52.82 Homotransplant of pancreas | ..... | X |
| Combination Procedure Codes: | | |
| 52.80 Pancreatic transplant, not otherwise specified, **Plus** 55.69 Other kidney transplantation | X | ..... |
| **Or** 52.82 Homotransplant of pancreas **Plus** 55.69 Other kidney transplantation | X | ..... |

The logic for the DRG 512 accepts the pair of diagnosis codes in any position (principal/secondary or secondary/secondary). The pair of procedure codes must be present along with the two diagnosis codes. This DRG will be placed in the Pre-MDC GROUPER logic immediately following DRG 480 (Liver Transplant).

The logic for DRG 513 accepts the pair of diagnosis codes in any position (principal/secondary or secondary/secondary). Only one procedure code must be used along with the two diagnosis codes. This DRG will be placed in the Pre-MDC GROUPER logic immediately following new DRG 512 (Simultaneous Pancreas/Kidney Transplant).

We received two comments on this proposal. One commenter supported the creation of the two new DRGs; a summary of the other comment follows:

*Comment:* One commenter noted that, as pancreas transplants were approved by Medicare on July 1, 1999, a special billing procedure should be made available to hospitals to enable hospitals to bill for the transplant DRG back to the effective date of the covered service.

*Response:* DRGs 512 and 513 are effective for discharges occurring on or

after October 1, 2001, for FY 2002. Discharges involving pancreas transplants occurring prior to that time are assigned to existing DRGs as described above. Therefore, there is no need for hospitals to resubmit their bills.

We are adopting the establishment of proposed DRGs 512 and 513 as final.

b. Intestinal Transplantation

Effective April 1, 2001, Medicare covers intestinal transplantation for the purpose of restoring intestinal function in patients with irreversible intestinal failure (Medicare Program Memorandum Transmittal No. AB–01–58, April 12, 2001). This procedure is covered only when performed for patients who have failed total parenteral nutrition (TPN) and only when performed in centers that meet approval criteria.

Intestinal failure is defined as the loss of absorptive capacity of the small bowel secondary to severe primary gastrointestinal disease or surgically induced short bowel syndrome. Intestinal failure prevents oral nutrition and may be associated with both mortality and profound morbidity.

If an intestinal transplantation alone is performed on a patient with an intestinal principal diagnosis, the case would be assigned to either DRG 148 (Major Small & Large Bowel Procedures With CC) or DRG 149 (Major Small & Large Bowel Procedures Without CC). If an intestinal transplantation and a liver transplantation are performed simultaneously, the case would be assigned to DRG 480 (Liver Transplant).

If an intestinal transplantation alone is performed on a patient with an intestinal principal diagnosis, the case would be assigned to either DRG 148 (Major Small & Large Bowel Procedures with CC) or DRG 149 (Major Small & Large Bowel Procedures Without CC). If an intestinal transplantation and a liver transplantation are performed simultaneously, the case would be assigned to DRG 480 (Liver Transplant).

If an intestinal transplantation and a pancreas transplantation are performed simultaneously, currently the case would be assigned to either DRG 148 or DRG 149. Effective October 1, 2001, the case would be assigned to DRG 513 (Pancreas Transplant). We proposed to make a conforming change to the regulations at § 412.2(e)(4) and § 486.302 to include intestines (and multivisceral organs) in the list of organs for which Medicare pays for the acquisition costs on a reasonable cost basis.

Effective October 1, 2000, procedure code 46.97 (Transplant of intestine) was created. For the proposed rule, we examined our Medicare claims data to determine whether it was appropriate to propose a new intestinal transplant DRG. We examined data in the FY 2000 MedPAR file containing bills submitted through May 31, 2000. Because procedure code 46.97 was not in place during this time we focused our examination on the previous code assignment for intestinal transplant, code 46.99 (Other operations on intestines), and facilities that are currently performing intestinal transplantation. We were able to identify only one case, with an average charge of approximately $10,738 as compared to the average standardized charges for DRGs 148 and 149, which are approximately $37,961, and $16,965, respectively. We will continue to monitor these cases to determine whether it may be appropriate in the future to establish a new DRG.

*Comment:* One commenter recommended performing data analysis next year to determine if a separate intestinal transplantation DRG should be created based on the fact that these procedures are being performed on a more frequent basis. Another commenter suggested that the preamble specifically state that while the acquisition costs for heart, liver, lung, and pancreas transplants continue to be paid on a reasonable cost basis, the acquisition costs for intestinal transplantation will be paid through the hospital inpatient prospective payment system DRG payment mechanism.

*Response:* It is our intent to continue to monitor these cases to determine whether it may be appropriate in the future to establish a new DRG.

To clarify the issue of acquisition costs, Medicare Program Memorandum Transmittal No. AB–01–58, released April 12, 2001, states that Medicare will not pay transplant facilities on a reasonable cost basis for organ acquisition for intestinal or multivisceral transplants. The DRG payment will be payment in full for hospital services related to this procedure. However, in this final rule, we are implementing a conforming change to the regulations at § 412.2(e)(4) and § 486.302, to include intestines (and multivisceral organs) in the list of organs for which Medicare pays for the acquisition costs on a reasonable cost basis. This change is effective with acquisition costs incurred on or after October 1, 2001. After that date, costs associated with the acquisition of intestines and multivisceral organs will be paid on a reasonable cost basis. Costs associated with intestines procured separately will be allocated to an intestine cost center and allocated on Worksheet D–6. Multivisceral organ transplantation includes organs in the digestive system (that is, stomach, duodenum, pancreas, liver, intestine, and colon). Multivisceral procurements, including an organ(s) as defined at § 486.302 as well as the intestine (small bowel), will be allocated to the intestinal acquisition cost center. Multivisceral procurements are procured en bloc and the entire cost of procuring all of the organs will be allocated to the intestinal acquisition cost center.

c. Payment for Blood Clotting Factor Administered to Hemophilia Inpatients

*Comment:* Although this issue was not addressed in the proposed rule, we received one comment requesting that the add-on payment for blood clotting factors administered to hemophilia inpatients include adequate reimbursement for hospitals that treat beneficiaries with acquired hemophilia.

*Response:* According to section 4452 of Public Law 105–33, which amended section 6011(d) of Public Law 101–239, prospective payment hospitals receive an additional payment for costs of administering blood clotting factor to Medicare hemophiliacs who are hospital inpatients.

Hemophilia, a bleeding disorder characterized by prolonged clotting time, is caused by a deficiency of a factor necessary for blood to clot. In the August 29, 1997 final rule implementing section 4452 of Public Law 105–33 (62 FR 46002), we stated that hemophilia was considered to encompass the following conditions: Factor VIII deficiency (classical hemophilia); Factor IX deficiency (also termed plasma thromboplastin component (PTC) or Christmas factor deficiency); and Von Willebrand's disease. The most common factors required by hemophiliacs to increase coagulation are Factor VIII and Factor IX; a small number of hemophiliacs have developed inhibitors to these factors and require special treatment. We did not receive any comments regarding this coverage until, most recently, the cases of acquired hemophilia, which affects a small subset of individuals (1 in 1 million), were brought to our attention.

We are revising our claims processing instructions to permit add-on payments for the following ICD–9–CM diagnosis codes associated with acquired hemophilia:

286.5 Hemorrhagic disorder due to circulating anticoagulants

286.7 Acquired coagulation factor deficiency.

*C. Recalibration of DRG Weights*

We proposed to use the same basic methodology for the FY 2002 recalibration as we did for FY 2001 (August 1, 2000 final rule (65 FR 47069)). That is, we would recalibrate the weights based on charge data for Medicare discharges. However, we proposed to use the most current charge information available, the FY 2000 MedPAR file. (For the FY 2001 recalibration, we used the FY 1999 MedPAR file.) The MedPAR file is based on fully coded diagnostic and procedure data for all Medicare inpatient hospital bills.

The final recalibrated DRG relative weights are constructed from FY 2000 MedPAR data (discharges occurring between October 1, 1999 and September 30, 2000), based on bills received by CMS through March 31, 2001, from all hospitals subject to the prospective payment system and short-term acute care hospitals in waiver States. The FY 2000 MedPAR file includes data for approximately 11,094,323 Medicare discharges.

The methodology used to calculate the DRG relative weights from the FY 2000 MedPAR file is as follows:

- To the extent possible, all the claims were regrouped using the DRG classification revisions discussed in section II.B. of this preamble.
- Charges were standardized to remove the effects of differences in area wage levels, indirect medical education and disproportionate share payments, and, for hospitals in Alaska and Hawaii, the applicable cost-of-living adjustment.
- The average standardized charge per DRG was calculated by summing the standardized charges for all cases in the DRG and dividing that amount by the number of cases classified in the DRG.
- We then eliminated statistical outliers, using the same criteria used in computing the current weights. That is, all cases that are outside of 3.0 standard deviations from the mean of the log distribution of both the charges per case and the charges per day for each DRG are eliminated.
- The average charge for each DRG was then recomputed (excluding the statistical outliers) and divided by the national average standardized charge per case to determine the relative weight. A transfer case is counted as a fraction of a case based on the ratio of its transfer payment under the per diem payment methodology to the full DRG payment for nontransfer cases. That is, transfer cases paid under the transfer methodology equal to half of what the case would receive as a nontransfer would be counted as 0.5 of a total case.
- We established the relative weight for heart and heart-lung, liver, and lung transplants (DRGs 103, 480, and 495) in a manner consistent with the methodology for all other DRGs except that the transplant cases that were used to establish the weights were limited to those Medicare-approved heart, heart-lung, liver, and lung transplant centers that have cases in the FY 1999 MedPAR file. (Medicare coverage for heart, heart-lung, liver, and lung transplants is limited to those facilities that have received approval from CMS as transplant centers.)
- Acquisition costs for kidney, heart, heart-lung, liver, lung, and pancreas transplants continue to be paid on a reasonable cost basis. Unlike other excluded costs, the acquisition costs are concentrated in specific DRGs: DRG 302 (Kidney Transplant); DRG 103 (Heart Transplant); DRG 480 (Liver Transplant); DRG 495 (Lung Transplant); and proposed new DRGs 512 (Simultaneous Pancreas/Kidney Transplant) and 513 (Pancreas Transplant). Because these costs are paid separately from the prospective payment rate, it is necessary to make an adjustment to prevent the relative weights for these DRGs from including the acquisition costs. Therefore, we subtracted the acquisition charges from the total charges on each transplant bill that showed acquisition charges before computing the average charge for the DRG and before eliminating statistical outliers.

When we recalibrated the DRG weights for previous years, we set a threshold of 10 cases as the minimum number of cases required to compute a reasonable weight. We use that same case threshold in recalibrating the DRG weights for FY 2002. Using the FY 2000 MedPAR data set, there are 37 DRGs that contain fewer than 10 cases. We computed the weights for these 37 low-volume DRGs by adjusting the FY 2001 weights of these DRGs by the percentage change in the average weight of the cases in the other DRGs.

The new weights are normalized by an adjustment factor (1.44556) so that the average case weight after recalibration is equal to the average case weight before recalibration. This adjustment is intended to ensure that recalibration by itself neither increases nor decreases total payments under the prospective payment system, and accounts for the gradual shift in cases toward higher-weighted DRGs over time.

We received no comments on DRG recalibration.

Section 1886(d)(4)(C)(iii) of the Act requires that, beginning with FY 1991, reclassification and recalibration changes be made in a manner that assures that the aggregate payments are neither greater than nor less than the aggregate payments that would have been made without the changes. Although normalization is intended to achieve this effect, equating the average case weight after recalibration to the average case weight before recalibration does not necessarily achieve budget neutrality with respect to aggregate payments to hospitals because payment to hospitals is affected by factors other than average case weight. Therefore, as we have done in past years and as discussed in section II.A.4.a. of the Addendum to the final rule, we make a budget neutrality adjustment to ensure that the requirement of section 1886(d)(4)(C)(iii) of the Act is met.

**III. Changes to the Hospital Wage Index**

*A. Background*

Section 1886(d)(3)(E) of the Act requires that, as part of the methodology for determining prospective payments to hospitals, the Secretary must adjust the standardized amounts ''for area differences in hospital wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage level.'' In accordance with the broad discretion conferred under the Act, we currently define hospital labor market areas based on the definitions of Metropolitan Statistical Areas (MSAs), Primary MSAs (PMSAs), and New England County Metropolitan Areas (NECMAs) issued by the Office of Management and Budget (OMB). The OMB also designates Consolidated MSAs (CMSAs). A CMSA is a metropolitan area with a population of one million or more, comprising two or more PMSAs (identified by their separate economic and social character). For purposes of the hospital wage index, we use the PMSAs rather than CMSAs since they allow a more precise breakdown of labor costs. If a metropolitan area is not designated as part of a PMSA, we use the applicable MSA. Rural areas are areas outside a designated MSA, PMSA, or NECMA. For purposes of the wage index, we combine all of the rural counties in a State to calculate a rural wage index for that State.

We note that, effective April 1, 1990, the term Metropolitan Area (MA) replaced the term MSA (which had been used since June 30, 1983) to describe the set of metropolitan areas consisting of MSAs, PMSAs, and CMSAs. The terminology was changed by OMB in

the March 30, 1990 **Federal Register** to distinguish between the individual metropolitan areas known as MSAs and the set of all metropolitan areas (MSAs, PMSAs, and CMSAs) (55 FR 12154). For purposes of the prospective payment system, we will continue to refer to these areas as MSAs.

Beginning October 1, 1993, section 1886(d)(3)(E) of the Act requires that we update the wage index annually. Furthermore, this section provides that the Secretary base the update on a survey of wages and wage-related costs of short-term, acute care hospitals. The survey should measure, to the extent feasible, the earnings and paid hours of employment by occupational category, and must exclude the wages and wage-related costs incurred in furnishing skilled nursing services. As discussed below in section III.F. of this preamble, we also take into account the geographic reclassification of hospitals in accordance with sections 1886(d)(8)(B) and 1886(d)(10) of the Act when calculating the wage index.

*B. FY 2002 Wage Index Update*

The FY 2002 wage index values in section V of the Addendum to this final rule (effective for hospital discharges occurring on or after October 1, 2001 and before October 1, 2002) are based on the data collected from the Medicare cost reports submitted by hospitals for cost reporting periods beginning in FY 1998 (the FY 2001 wage index was based on FY 1997 wage data).

The final FY 2002 wage index includes the following categories of data associated with costs paid under the hospital inpatient prospective payment system (as well as outpatient costs), which were also included in the FY 2001 wage index:

- Salaries and hours from short-term, acute care hospitals.
- Home office costs and hours.
- Certain contract labor costs and hours.
- Wage-related costs.

Consistent with the wage index methodology for FY 2001, the wage index for FY 2002 also continues to exclude the direct and overhead salaries and hours for services not paid through the inpatient prospective payment system such as skilled nursing facility (SNF) services, home health services, or other subprovider components that are not subject to the prospective payment system.

We calculate a separate Puerto Rico-specific wage index and apply it to the Puerto Rico standardized amount. (See 62 FR 45984 and 46041.) This wage index is based solely on Puerto Rico's data. Finally, section 4410 of Public Law 105–33 provides that, for discharges on or after October 1, 1997, the area wage index applicable to any hospital that is not located in a rural area may not be less than the area wage index applicable to hospitals located in rural areas in that State.

*C. FY 2002 Wage Index*

Because the hospital wage index is used to adjust payments to hospitals under the prospective payment system, the wage index should, to the extent possible, reflect the wage costs associated with the areas of the hospital included under the hospital inpatient prospective payment system. In response to concerns within the hospital community related to the removal, from the wage index calculation, of costs related to graduate medical education (GME) (teaching physicians and residents) and certified registered nurse anesthetists (CRNAs), which are paid by Medicare separately from the prospective payment system, the AHA convened a workgroup to develop a consensus recommendation on this issue. The workgroup recommended that costs related to GME and CRNAs be phased out of the wage index calculation over a 5-year period. Based upon our analysis of hospitals' FY 1996 wage data, and consistent with the AHA workgroup's recommendation, we specified in the July 30, 1999 final rule (64 FR 41505) that we would phase-out these costs from the calculation of the wage index over a 5-year period, beginning in FY 2000. In keeping with the decision to phase-out costs related to GME and CRNAs, the final FY 2002 wage index is based on a blend of 40 percent of an average hourly wage including these costs, and 60 percent of an average hourly wage excluding these costs.

Beginning with the FY 1998 cost reports, we revised the Worksheet S–3, Part II so that hospitals can separately report teaching physician Part A costs on lines 4.01, 10.01, 12.01, and 18.01. Therefore, it is no longer necessary for us to conduct the special survey we used for the FY 2000 and FY 2001 wage indexes (64 FR 41505 and 65 FR 47071).

1. Health Insurance and Health-Related Costs

In the August 1, 2000 final rule, we clarified our definition of ''purchased health insurance costs'' and ''self-insurance'' for hospitals that provide health insurance to employees (65 FR 47073). For purposes of the wage index, purchased or self-funded health insurance plan costs include the hospitals' insurance premium costs, external administration costs, and the share of costs for services delivered to employees.

In response to a comment received concerning this issue, we stated that, for self-funded health insurance costs, personnel costs associated with hospital staff that deliver the services to the employees must continue to be excluded from wage-related costs if the costs are already included in the wage data as salaries on Worksheet S–3, Part II, Line 1. However, after further consideration of this policy, particularly with respect to concerns expressed by our fiscal intermediaries about the level of effort required during the wage index desk review process to ensure hospitals are appropriately identifying and excluding these costs, in the May 4, 2001 proposed rule we proposed a revision. Effective with the calculation of the FY 2003 wage index, for either purchased or self-funded health insurance, we proposed to allow personnel costs associated with hospital staff who deliver services to employees to be included as part of the wage-related costs. We believe the proposed revised policy will ensure that health insurance costs are consistently reported by hospitals. Health insurance costs would continue to be developed using generally accepted accounting principles.

In the August 1, 2000 final rule (65 FR 47073), we further clarified that health-related costs (including employee physical examinations, flu shots, and clinic visits, and other services that are not covered by employees' health insurance plans but are provided at no cost or at discounted rates to employees of the hospital) may be included as ''other'' wage-related costs if, among other criteria, the combined cost of all such health-related costs is greater than one percent of the hospital's total salaries (less excluded area salaries).

For purposes of calculating the FY 2003 wage index (which will be based on data for cost reporting periods beginning in FY 1999), we proposed to revise this policy to allow hospitals to include health-related costs as allowable core wage-related costs.

*Comment:* One commenter supported our proposal to include health-related costs as core wage-related costs. The commenter also agreed with our proposal to include all personnel costs associated with hospital staff who deliver health services to employees. However, the commenter expressed concern that the proposed changes would require burdensome and duplicative revisions to cost reports that have already been filed.

*Response:* We believe that these revised policies (to eliminate the

distinction between purchased health insurance and self-funded health insurance, and to treat costs associated with health-related services that are not part of the employees' health insurance plan consistent with costs included in the plan) will ensure that these costs are treated consistently across hospitals and fiscal intermediaries.

In response to the commenter's concern that the policy will require revisions to previously submitted cost reports, we believe the changes are not significant, particularly in light of the volume of changes submitted every year by hospitals during the wage data review process (see discussion in section III.G. of this final rule). The cost report changes necessary to implement these policy changes involve including costs previously disallowed. In the case of personnel costs associated with hospital staff who deliver services to employees, these costs would have already been identified in order to be excluded from the wage data. With respect to health services provided outside the employees' health insurance plan, we acknowledge that some hospitals may not have tracked these costs because they did not qualify for inclusion as other wage-related costs. However, due to concerns expressed by fiscal intermediaries about the difficulty of identifying these costs separate from those that are part of the insurance plan, we believe there may be inconsistencies in the current data with regard to how these costs are treated. Therefore, we believe, in the interest of improving the consistency of the data, that we should begin to allow these costs as core wage-related costs effective with the FY 2003 wage index.

2. Costs of Contracted Pharmacy and Laboratory Services

Our policy concerning inclusion of contract labor costs for purposes of calculating the wage index has evolved over the years. We recognize the role of contract labor in meeting special personnel needs of many hospitals. In addition, improvements in the wage data have allowed us to more accurately identify contract labor costs and hours. As a result, effective with the FY 1994 wage index, we included the costs of direct patient care contract services in the wage index calculation. The FY 1999 wage index included the costs and hours of certain management contract services, and the FY 2000 wage index included the costs for contract physician Part A services. (The 1996 proposed rule (61 FR 27456) provided an in-depth background to the issues related to the inclusion of contract labor costs in the wage index calculation.)

We revised the 1998 cost report to collect the data associated with contract pharmacy, Worksheet S–3, Part II, Line 9.01, and contract laboratory, Worksheet S–3, Part II, Line 9.02. The cost reporting instructions for these line numbers followed that for all contract labor lines; that is, to include the amount paid for services furnished under contract for direct patient care, and not include cost for equipment, supplies, travel expenses, and other miscellaneous or overhead items (Medicare Provider Reimbursement Manual, Part 2, Cost Reporting Forms and Instructions, Chapter 36, Transmittal 6, pages 36–32). Effective with the FY 2002 wage index, which uses FY 1998 wage data, we are including in this final rule (as proposed in the May 4 proposed rule) the costs and hours of contract pharmacy and laboratory services.

*Comment:* Two commenters supported our proposed policy to include the costs and hours of contract pharmacy and laboratory as direct patient care contract labor in the FY 2002 wage index. However, both commenters recommended that clearer guidelines be provided to ensure consistency in interpretation by fiscal intermediaries and contract vendors.

*Response:* Beginning with the FY 2002 wage index, we are including the costs and hours of contract pharmacy and laboratory services in the calculation of the wage index. Further instructions for reporting contract pharmacy and laboratory costs will be included in Transmittal 8 of the cost report, due for release in early fall 2001.

3. Collection of Occupational Mix Data

Section 304(c) of Public Law 106–554 amended section 1886(d)(3)(E) of the Act to require that the Secretary must provide for the collection of data every 3 years on the occupational mix of employees for each short-term, acute care hospital participating in the Medicare program, in order to construct an occupational mix adjustment to the wage index. The initial collection of these data must be completed by September 30, 2003, for application beginning October 1, 2004.

Currently, the wage data collected on the cost report reflect the sum of wages, hours, and wage-related costs for all hospital employees. There is no separate collection by occupational categories of employees, such as registered nurses or physical therapists. Total salaries and hours reflect management decisions made by hospitals in terms of how many employees within a certain occupation to employ to treat different types of patients. For example, a large academic medical center may tend to hire more high-cost specialized employees to treat its more acutely ill patient population. The argument is that the higher labor costs incurred to treat this patient population are reflected in the higher case mix of these hospitals, and therefore, reflecting these costs in the wage index is essentially counting them twice.

An occupational mix adjustment can be used to account for hospital management decisions about how many employees to hire in each occupational category. Occupational mix data measure the price the hospital must pay for employees within each category. A wage index that reflected only these market prices would remove the impact of management decisions about the mix of employees needed and, therefore, better capture geographic variations in the labor market.

We have examined this issue previously. In the May 27, 1994 **Federal Register** (59 FR 27724), we discussed the outcome of consideration of this issue by a hospital workgroup. At that time, the workgroup's consensus was that the data required to implement an occupational mix adjustment were not available and the likelihood of obtaining such data would be minimal. There seemed to be little support among hospital industry representatives for developing a system that would create additional reporting burdens with an unproven or minimal impact on the distribution of payments. Also, in the August 30, 1991 **Federal Register** (56 FR 43219), we stated our belief that the collection of these data would be costly and difficult.

In considering the format to collect occupational mix data, we looked to data currently being collected by the Bureau of Labor Statistics (BLS), which conducts an annual mail survey to produce estimates of employment and wages for specific occupations. This program, Occupational Employment Statistics (OES), collects data on wage and salary workers in nonfarm establishments in order to produce employment and wage estimates for over 700 occupations.

The OES survey collects wage data in 12 hourly rate intervals. Employers report the number of employees in an occupation per each wage range. To illustrate, the wage intervals used for the 1999 survey are as follows:

| Interval | Hourly wages | Annual wages |
|---|---|---|
| Range A | Under $6.75 | Under $14,040. |
| Range B | $6.75 to $8.49 | $14,040 to $17,659. |
| Range C | 8.50 to 10.74 | 17,660 to 22,359. |
| Range D | 10.75 to 13.49 | 22,360 to 28,079. |
| Range E | 13.50 to 16.99 | 28,080 to 35,359. |
| Range F | 17.00 to 21.49 | 35,360 to 44,719. |
| Range G | 21.50 to 27.24 | 44,720 to 56,679. |
| Range H | 27.25 to 34.49 | 56,680 to 71,759. |
| Range I | 34.50 to 43.74 | 71,760 to 90,999. |
| Range J | 43.75 to 55.49 | 91,000 to 115,439. |
| Range K | 55.50 to 69.99 | 115,440 to 145,599. |
| Range L | 70.00 and over | 145,600 and over. |

We noted that this table is for illustrative purposes, and that we may update the data ranges in our actual collection instrument.

Although we initially considered using the OES data, section 304(c) of Public Law 106–554 requires us to collect data from every short-term, acute care hospital. The OES data are a sample survey and, therefore, as currently conducted, are not consistent with the statutory requirement to include data from every hospital. Another issue with using OES data is that, for purposes of the Medicare wage index, the hospitals' data must be reviewed and verified by the fiscal intermediaries. The OES survey is a voluntary survey for most States.

Although we decided to pursue a separate data collection effort than OES, we proposed in the May 4, 2001 proposed rule to model our format after the one used by OES. In this way, hospitals participating in the OES survey would have no additional recordkeeping and reporting requirements beyond those of the OES survey.

The OES survey of the hospital industry is designed to capture all occupational categories within the industry. For purposes of adjusting the wage index for occupational mix, we do not believe it is necessary to collect data from such a comprehensive scope of categories. Furthermore, because the data must be audited, a comprehensive list of categories would be excessively burdensome.

In deciding which occupational categories to include, we reviewed the occupational categories collected by OES and identified those with at least 35,000 hospital employees. Our goal is to collect data from a sample of occupational categories that provides a valid measure of wage rates within a geographical area. In the May 4 proposed rule, using this threshold of at least 35,000 employees within a category nationally, we proposed to collect data on the number of employees by wage range as illustrated in the above table, for the occupational categories listed below. The following data, which was also listed in the proposed rule, are based on the 1998 OES survey. (These data are no longer available on the internet.)

| OES code | Category | Number of employees | Percent of total hospital employees | Mean hourly wage |
|---|---|---|---|---|
| 15008 | Medicine and Health Services Manager | 93,680 | 1.9 | $27.38 |
| 27302 | Social Workers, Medical and Psychiatric | 53,360 | 1.1 | 16.33 |
| 32102 | Physicians and Surgeons | 125,640 | 2.6 | 43.76 |
| 32308 | Physical Therapists | 39,840 | 0.8 | 26.14 |
| 32502 | Registered Nurses | 1,231,980 | 25.0 | 21.12 |
| 32505 | Licensed Practical Nurses | 206,360 | 4.2 | 13.39 |
| 32517 | Pharmacists | 46,860 | 1.0 | 28.62 |
| 32911, 32928, and 32931 | Clinical Technologists and Technicians | 122,380 | 2.50 | 11.69 |
| 51002, 55105, 55108, 55305, 55332, and 55347. | First-Line Supervisors and Clerical Workers | 445,730 | 9.5 | 11.39 |
| 65038, 67002, and 67005 | Food Preparation Workers and Housekeeping | 218,440 | 4.5 | 8.17 |
| 66008 | Nursing Aides, Orderlies, and Attendants | 301,240 | 6.2 | 8.67 |

We proposed that this list of occupational categories provides a good representation of the employee mix at most hospitals. It has since come to our attention that the occupational categories listed in the proposed rule have been replaced by Standard Occupational Category definitions.

Because we had not yet settled on the methodology to use the occupational mix data in the wage index, we discussed in the proposed rule one option to weight each hospital's wage index by its occupational mix index. This requires calculating a national occupational mix index and then breaking it down by MSA and by hospital, similar to how the wage index is broken down. In this way, the wage index would capture geographic differences in wage rates. The decision about how to apply the occupational mix index to the wage index depends on the quality of the data collected, since this effort will be the first time wage and hour data by occupation are collected in this audited manner.

Section 304(c) directs the Secretary to provide for the collection of these data by September 30, 2003, and to apply them in the wage index by October 1, 2004. Therefore, the data are to be incorporated in the FY 2005 wage index. Under our current timetable, the FY 2005 wage index will be based on wage data collected from hospitals' cost reporting periods beginning during FY 2001. In order to facilitate the fiscal intermediaries' review of these data, we believe the occupational mix data should coincide with the data otherwise

used to calculate the cost report. Therefore, we will conduct a special survey of all short-term acute-care hospitals that are required to report wage data to collect these data coinciding with hospitals' FY 2001 cost reports.

*Comment:* Several commenters expressed interest in working with us to develop an appropriate data collection tool. They suggested that the data be relatively simple for hospitals to gather and submit, and should be collected on 100 percent of hospital employees. Another commenter recommended that, at least initially, only data on nursing categories would be sufficient since nurses are 35 percent of hospital employees and can be divided into a few easily distinguishable categories. Two commenters offered examples for how these data are collected in their area. Some commenters wanted these data incorporated in the cost report to limit the number of forms hospitals must complete and to improve the response rate.

*Response:* We agree that it would be beneficial to work with the industry to develop a workable data collection tool, especially given the importance of the wage index in adjusting hospital payments. We appreciate the comments on the option presented in the proposed rule and believe that these comments will help initiate further thought toward the development of an occupational mix survey that can be administered without excessive burden on hospitals, the fiscal intermediaries, or CMS.

Due to time constraints in meeting the statutory deadlines, our intention at this point is to attempt to develop a survey instrument for the initial collection of occupational mix data that can be used by hospitals during calendar year 2002. Therefore, prior to January 1, 2002, we plan to work with the hospital community to develop a survey instrument. We believe issues related to the sample size of the data collected and the appropriate occupational categories to collect can best be resolved through consultation with the industry. Therefore, we will be contacting those organizations that expressed an interest in consultation in their comments. Other interested parties are encouraged to contact us as well.

After developing a method that appropriately balances the need to collect accurate and reliable data with the need to collect data hospitals can be reasonably expected to have available, we will issue instructions as to the type of data to be collected, in advance of actually requiring hospitals to begin providing the data.

*Comment:* Some commenters asked us to further develop the planned use of the occupation information and then decide what information is required. They requested that we publish the projected economic effects of an occupational mix adjustment upon each hospital as soon as feasible, and demonstrate tangible benefits prior to requiring hospitals to collect data. One commenter offered a specific methodology that could be employed. Other commenters want the methodology phased-in over time to allow hospitals time to adjust to different payment levels.

*Response:* In the proposed rule, we stated that we had not yet settled on the actual methodology for using the occupational mix data in the calculation of the wage index. We indicated the decision as to how the data will be used is dependent on the quality of the data collected. That is still the case. Furthermore, as discussed above, we intend to develop an appropriate data collection instrument in consultation with the hospital community. Therefore, until decisions are made with regard to the specific data to be collected, we cannot specify how the data will be used. However, the selection of an appropriate methodology (including a possible phase-in) will be influenced by analysis of the impacts of the method on hospital payments.

*Comment:* Two commenters expressed concerns that adopting the occupational mix adjustment for the wage index will lower the average hourly wage of teaching hospitals because of their mix of highly skilled, higher paid employees to treat patients with more complex conditions. These commenters argued that implementation of the occupational mix adjustment should proceed only in conjunction with the adoption of severity-adjusted DRGs. These commenters wrote that the current DRG system does not adequately recognize patient severity and pay for the higher resource costs associated with complex patients, but teaching hospitals can recoup some of these losses because their higher employee skill mix is reflected in their average hourly wage.

Furthermore, one commenter countered the argument that the higher labor costs incurred to treat a more severely ill patient population are reflected in the higher case mix of these hospitals and, therefore, reflecting these costs in the wage index is essentially counting them twice. This commenter pointed out that, because the DRG weights are based on hospital charges that are standardized by, among other factors, the area wage index, the weights of tertiary care DRGs are lower than they would be if the average charge per case were not first standardized by the wage index. However, the commenter went on to state that it is preferable to account for skill mix in the wage index rather than the case-mix index.

*Response:* As we stated in the August 1, 2000 final rule (65 FR 47103), we agree that severity-adjusted DRGs have potential for reducing discrepancies between payments and costs for individual cases (60 FR 29246). We have stated that, prior to implementing severity-adjusted DRGs, we would need specific legislative authority to offset any significant anticipated increase in payments attributable to changes in coding practices caused by significant changes to the DRG classification system. Section 301 of Public Law 106–554 authorized the Secretary to adjust the average standardized amounts if he determines that DRG coding or classification changes are likely to result in a change in aggregate payments. Therefore, based on this authority, we are beginning to evaluate the potential for implementing severity-adjusted DRGs. Because we are at the initial stages of that effort, we cannot yet estimate when, or if, such implementation may occur. However, we agree with these commenters' points that significant changes to any of the adjustments under the prospective payment system must be considered in light of the effects such changes may have to other such adjustments.

*Comment:* One commenter interpreted our proposal to suggest that the fiscal year for which the data will be collected will be closed by the time the methodology and data requirements have been established.

*Response:* In the proposed rule, we indicated we would conduct a special survey to collect these data to coincide with hospitals' cost reports beginning during FY 2001. We do not intend to require hospitals to retroactively adjust their payroll records to collect these data. Therefore, given our intention to gather input from the industry prior to designing the survey instrument, it likely will not be possible to completely coincide the data collection period with hospitals' FY 2001 cost reports.

Although there may be some auditing benefits to having the data overlap, this type of data is not routinely collected through the cost reports, so that the auditing benefits of such overlap may be minimal. In addition, there may be a benefit to collecting occupational mix for a more recent period in terms of reflecting current trends, such as higher wages paid to nurses during a shortage.

*Comment:* Other commenters raised specific technical concerns about the occupational mix discussion in the proposed rule.

*Response:* Rather than respond individually at this time to technical issues associated with the occupational mix discussion in the proposed rule, we will address these issues through direct consultation with the industry, as described above.

*D. Verification of Wage Data From the Medicare Cost Report*

The data for the FY 2002 wage index were obtained from Worksheet S–3, Parts II and III of the FY 1998 Medicare cost reports. The data file used to construct the wage index includes FY 1998 data submitted to us as of July 2001. As in past years, we performed an intensive review of the wage data, mostly through the use of edits designed to identify aberrant data.

We asked our fiscal intermediaries to revise or verify data elements that resulted in specific edit failures. The unresolved data elements that were included in the calculation of the proposed FY 2002 wage index have been resolved and are reflected in the calculation of the final FY 2002 wage index. We note that, as part of this process to identify aberrant data and correct any errors prior to the calculation of the final FY 2002 wage index, we notified by letter those hospitals that were leading to large variations in the wage indexes of their labor market areas compared to the FY 2001 wage index. These hospitals were advised to review their data to identify the reason for the large increases or decreases and notify their fiscal intermediary of any necessary corrections.

Also, as part of our editing process, in the final wage index, we removed data for 30 hospitals that failed edits. For 24 of these hospitals, we were unable to obtain sufficient documentation to verify or revise the data because the hospitals are no longer participating in the Medicare program or are in bankruptcy status. Six hospitals had incomplete or inaccurate data resulting in exceptionally large, zero, or negative average hourly wages. Therefore, they were removed from the calculation. As a result, the final FY 2002 wage index is calculated based on FY 1998 wage data for 4,880 hospitals.

*Comment:* One commenter recommended that we incorporate additional fatal edits in the cost reporting systems to eliminate obvious errors on the Worksheet S–3 that result in incomplete or erroneous wage data that are difficult to correct 4 years later.

*Response:* We do not agree with the recommendation of the commenter. A separate desk review is performed for the wage index. The desk review, combined with the level two edits, is sufficient to provide fiscal intermediaries with information to identify discrepancies, such as zero or negative average hourly wage or missing hours, that can be resolved by the fiscal intermediary during the cost reporting process.

*E. Computation of the FY 2002 Wage Index*

We note a technical change to the FY 2002 calculation. For the FY 2001 wage index calculation, we initially proposed to subtract Line 13 of Worksheet S–3, Part III from total hours when determining the excluded hours ratio used to estimate the amount of overhead attributed to excluded areas (65 FR 26299). However, the formula resulted in large and inappropriate increases in the average hourly wages for some hospitals (65 FR 47074), particularly hospitals that have large overhead and excluded area costs. Therefore, for the final FY 2001 wage index calculation, we reverted to the FY 2000 excluded hours ratio formula, which did not subtract Line 13.

Subsequently, we analyzed how the application of this formula resulted in overstated average hourly wages for some hospitals and how we could improve the overall accuracy of the overhead allocation methodology. We became aware that the problem was not in the excluded hours ratio formula. Rather, our wage index calculation did not also remove the overhead wage-related costs associated with excluded areas, an amount that must be estimated before it can be subtracted from the calculation. The combined effect of applying the excluded hours ratio formula, which appropriately removes salaries of lower-wage, overhead employees, and not subtracting overhead wage-related costs associated with excluded areas, resulted in overstated salary costs and average hourly wages.

For the FY 2002 wage index calculation, we are applying the excluded hours ratio formula that subtracts Part III, Line 13 from total hours. Additionally, for the first time in the wage index calculation, we estimated and subtracted overhead wage-related costs allocated to excluded areas.

After we applied this new calculation, there were still a few hospitals that experienced large increases in their average hourly wages. The intermediaries verified that the hospitals' wage data were accurate, so we kept the data in the wage index calculation. These hospitals primarily function as SNFs, psychiatric hospitals, or rehabilitation hospitals that have few acute care beds. The hospitals' higher average hourly wages reflect the costs of the higher salaried employees that remain in the wage index calculation after we subtract the costs of excluded area and associated overhead employees.

The method used to compute the final FY 2002 wage index follows.

Step 1—As noted above, we based the FY 2002 wage index on wage data reported on the FY 1998 Medicare cost reports. We gathered data from each of the non-Federal, short-term, acute care hospitals for which data were reported on the Worksheet S–3, Parts II and III of the Medicare cost report for the hospital's cost reporting period beginning on or after October 1, 1997 and before October 1, 1998. In addition, we included data from any hospital that had cost reporting periods beginning before October 1997 and reported a cost reporting period covering all of FY 1998. These data were included because no other data from these hospitals would be available for the cost reporting period described above, and because particular labor market areas might be affected due to the omission of these hospitals. However, we generally describe these wage data as FY 1998 data. We note that, if a hospital had more than one cost reporting period beginning during FY 1998 (for example, a hospital had two short cost reporting periods beginning on or after October 1, 1997 and before October 1, 1998), we included wage data from only one of the cost reporting periods, the longest, in the wage index calculation. If there was more than one cost reporting period and the periods were equal in length, we included the wage data from the latest period in the wage index calculation.

Step 2—Salaries—The method used to compute a hospital's average hourly wage is a blend of 40 percent of the hospital's average hourly wage including all GME and CRNA costs, and 60 percent of the hospital's average hourly wage after eliminating all GME and CRNA costs.

In calculating a hospital's average salaries plus wage-related costs, including all GME and CRNA costs, we subtracted from Line 1 (total salaries) the Part B salaries reported on Lines 3 and 5, home office salaries reported on Line 7, and excluded salaries reported on Lines 8 and 8.01 (that is, direct salaries attributable to skilled nursing facility services, home health services, and other subprovider components not

subject to the inpatient prospective payment system). We also subtracted from Line 1 the salaries for which no hours were reported on Lines 2, 4, and 6. To determine total salaries plus wage-related costs, we added to the net hospital salaries the costs of contract labor for direct patient care, certain top management, pharmacy, laboratory, and physician Part A services (Lines 9, 9.01, 9.02, 10, and 10.01), home office salaries and wage-related costs reported by the hospital on Lines 11, 12, and 12.01, and nonexcluded area wage-related costs (Lines 13, 14, 16, 18, 18.01, and 20).

We note that contract labor and home office salaries for which no corresponding hours are reported were not included. In addition, wage-related costs for specific categories of employees (Lines 16, 18, 18.01, and 20) are excluded if no corresponding salaries are reported for those employees (Lines 2, 4, 4.01, and 6, respectively).

We then calculated a hospital's salaries plus wage-related costs by subtracting from total salaries the salaries plus wage-related costs for teaching physicians, Lines (4.01, 10.01, 12.01, and 18.01), Part A CRNAs (Lines 2 and 16), and residents (Lines 6 and 20).

Step 3—Hours—With the exception of wage-related costs, for which there are no associated hours, we computed total hours using the same methods as described for salaries in Step 2.

Step 4—For each hospital reporting both total overhead salaries and total overhead hours greater than zero, we then allocated overhead costs to areas of the hospital excluded from the wage index calculation. First, we determined the ratio of excluded area hours (sum of Lines 8 and 8.01 of Worksheet S–3, Part II) to revised total hours (Line 1 minus the sum of Part II, Lines 3, 5, 7, and Part III, Line 13 of Worksheet S–3). We then computed the amounts of overhead salaries and hours to be allocated to excluded areas by multiplying the above ratio by the total overhead salaries and hours reported on Line 13 of Worksheet S–3, Part III. Next, we computed the amounts of overhead wage-related costs to be allocated to excluded areas using three steps: (1) We determined the ratio of overhead hours (Part III, Line 13) to revised hours (Line 1 minus the sum of Lines 3, 5, and 7); (2) we computed overhead wage-related costs by multiplying the overhead hours ratio by wage-related costs reported on Part II, Lines 13, 14, 16, 18, 18.01, and 20; and (3) we multiplied the computed overhead wage-related costs by the above excluded area hours ratio. Finally, we subtracted the computed overhead salaries, wage-related costs, and hours associated with excluded areas from the total salaries (plus wage-related costs) and hours derived in Steps 2 and 3. Using the above method for computing overhead salaries, wage-related costs, and hours to allocate to excluded areas, we also computed these costs excluding all costs associated with GME and CRNAs (Lines 2, 4.01, 6, 10.01, 12.01, and 18.01).

Step 5—For each hospital, we adjusted the total salaries plus wage-related costs to a common period to determine total adjusted salaries plus wage-related costs. To make the wage adjustment, we estimated the percentage change in the employment cost index (ECI) for compensation for each 30-day increment from October 14, 1997 through April 15, 1999 for private industry hospital workers from the Bureau of Labor Statistics' *Compensation and Working Conditions.* We use the ECI because it reflects the price increase associated with total compensation (salaries plus fringes) rather than just the increase in salaries. In addition, the ECI includes managers as well as other hospital workers. This methodology to compute the monthly update factors uses actual quarterly ECI data and assures that the update factors match the actual quarterly and annual percent changes. The factors used to adjust the hospital's data were based on the midpoint of the cost reporting period, as indicated below.

MIDPOINT OF COST REPORTING PERIOD

| After | Before | Adjustment factor |
|---|---|---|
| 10/14/97 | 11/15/97 | 1.03822 |
| 11/14/97 | 12/15/97 | 1.03561 |
| 12/14/97 | 01/15/98 | 1.03292 |
| 01/14/98 | 02/15/98 | 1.03048 |
| 02/14/98 | 03/15/98 | 1.02828 |
| 03/14/98 | 04/15/98 | 1.02621 |
| 04/14/98 | 05/15/98 | 1.02411 |
| 05/14/98 | 06/15/98 | 1.02200 |
| 06/14/98 | 07/15/98 | 1.01973 |
| 07/14/98 | 08/15/98 | 1.01714 |
| 08/14/98 | 09/15/98 | 1.01424 |
| 09/14/98 | 10/15/98 | 1.01137 |
| 10/14/98 | 11/15/98 | 1.00885 |
| 11/14/98 | 12/15/98 | 1.00669 |
| 12/14/98 | 01/15/99 | 1.00462 |
| 01/14/99 | 02/15/99 | 1.00239 |
| 02/14/99 | 03/15/99 | 1.00000 |
| 03/14/99 | 04/15/99 | 0.99746 |

For example, the midpoint of a cost reporting period beginning January 1, 1998 and ending December 31, 1998 is June 30, 1998. An adjustment factor of 1.01973 would be applied to the wages of a hospital with such a cost reporting period. In addition, for the data for any cost reporting period that began in FY 1998 and covered a period of less than 360 days or more than 370 days, we annualized the data to reflect a 1-year cost report. Annualization is accomplished by dividing the data by the number of days in the cost report and then multiplying the results by 365.

Step 6—Each hospital was assigned to its appropriate urban or rural labor market area before any reclassifications under section 1886(d)(8)(B) or section 1886(d)(10) of the Act. Within each urban or rural labor market area, we added the total adjusted salaries plus wage-related costs obtained in Step 5 (with and without GME and CRNA costs) for all hospitals in that area to determine the total adjusted salaries plus wage-related costs for the labor market area.

Step 7—We divided the total adjusted salaries plus wage-related costs obtained under both methods in Step 6 by the sum of the corresponding total hours (from Step 4) for all hospitals in each labor market area to determine an average hourly wage for the area.

Because the FY 2002 wage index is based on a blend of average hourly wages, we then added 40 percent of the average hourly wage calculated without removing GME and CRNA costs, and 60 percent of the average hourly wage calculated with these costs excluded.

Step 8—We added the total adjusted salaries plus wage-related costs obtained in Step 5 for all hospitals in the nation and then divided the sum by the national sum of total hours from Step 4 to arrive at a national average hourly wage (using the same blending methodology described in Step 7). Using the data as described above, the national average hourly wage is $22.3096.

Step 9—For each urban or rural labor market area, we calculated the hospital wage index value by dividing the area average hourly wage obtained in Step 7 by the national average hourly wage computed in Step 8.

Step 10—Following the process set forth above, we developed a separate Puerto Rico-specific wage index for purposes of adjusting the Puerto Rico standardized amounts. (The national Puerto Rico standardized amount is adjusted by a wage index calculated for all Puerto Rico labor market areas based on the national average hourly wage as described above.) We added the total adjusted salaries plus wage-related costs (as calculated in Step 5) for all hospitals in Puerto Rico and divided the sum by the total hours for Puerto Rico (as calculated in Step 4) to arrive at an overall average hourly wage of $10.7529 for Puerto Rico. For each labor market area in Puerto Rico, we calculated the

Puerto Rico-specific wage index value by dividing the area average hourly wage (as calculated in Step 7) by the overall Puerto Rico average hourly wage.

Step 11—Section 4410 of Public Law 105–33 provides that, for discharges on or after October 1, 1997, the area wage index applicable to any hospital that is located in an urban area may not be less than the area wage index applicable to hospitals located in rural areas in that State. Furthermore, this wage index floor is to be implemented in such a manner as to ensure that aggregate prospective payment system payments are not greater or less than those that would have been made in the year if this section did not apply. For FY 2002, this change affects 217 hospitals in 40 MSAs. The MSAs affected by this provision are identified in Table 4A by a footnote.

*F. Revisions to the Wage Index Based on Hospital Redesignation*

Under section 1886(d)(8)(B) of the Act, hospitals in certain rural counties adjacent to one or more MSAs are considered to be located in one of the adjacent MSAs if certain standards are met. Under section 1886(d)(10) of the Act, the Medicare Geographic Classification Review Board (MGCRB) considers applications by hospitals for geographic reclassification for purposes of payment under the prospective payment system.

1. Provisions of Public Law 106–554

Section 304 of Public Law 106–554 made changes to several provisions of section 1886(d)(10) of the Act relating to hospital reclassifications and the wage index:

• Section 304(a) amended section 1886(d)(10)(D) of the Act by adding a clause (v) to provide that, beginning with FY 2001, an MGCRB decision on a hospital reclassification for purposes of the wage index is effective for 3 years, unless the hospital elects to terminate the reclassification. Section 304(a) also provides that the MGCRB must use the 3 most recent years' average hourly wage data in evaluating a hospital's reclassification application for FY 2003 and any succeeding fiscal year (section 1886(d)(10)(D)(vi) of the Act).

• Section 304(b) provides that, by October 1, 2001, the Secretary must establish a mechanism under which a statewide entity may apply to have all of the geographic areas in the State treated as a single geographic area for purposes of computing and applying a single wage index, for reclassifications beginning in FY 2003. Section 304(b) further requires that if the Secretary applies a statewide wage index to a State, an application under section 1886(d)(10) of the Act by an individual hospital in that State would not be considered.

We address our policy proposals relating to implementation of these three provisions of sections 304(a) and (b) of Public Law 106–554 in section IV.G. of this final rule. The following discussion of the revisions to the wage index based on hospital redesignations reflects those policies.

2. Effects of Reclassification

The methodology for determining the wage index values for redesignated hospitals is applied jointly to the hospitals located in those rural counties that were deemed urban under section 1886(d)(8)(B) of the Act and those hospitals that were reclassified as a result of the MGCRB decisions under section 1886(d)(10) of the Act. Section 1886(d)(8)(C) of the Act provides that the application of the wage index to redesignated hospitals is dependent on the hypothetical impact that the wage data from these hospitals would have on the wage index value for the area to which they have been redesignated. Therefore, as provided in section 1886(d)(8)(C) of the Act, the wage index values were determined by considering the following:

• If including the wage data for the redesignated hospitals would reduce the wage index value for the area to which the hospitals are redesignated by 1 percentage point or less, the area wage index value determined exclusive of the wage data for the redesignated hospitals applies to the redesignated hospitals.

• If including the wage data for the redesignated hospitals reduces the wage index value for the area to which the hospitals are redesignated by more than 1 percentage point, the area wage index determined inclusive of the wage data for the redesignated hospitals (the combined wage index value) applies to the redesignated hospitals.

• If including the wage data for the redesignated hospitals increases the wage index value for the area to which the hospitals are redesignated, both the area and the redesignated hospitals receive the combined wage index value.

• The wage index value for a redesignated urban or rural hospital cannot be reduced below the wage index value for the rural areas of the State in which the hospital is located.

• Rural areas whose wage index values would be reduced by excluding the wage data for hospitals that have been redesignated to another area continue to have their wage index values calculated as if no redesignation had occurred.

• Rural areas whose wage index values increase as a result of excluding the wage data for the hospitals that have been redesignated to another area have their wage index values calculated exclusive of the wage data of the redesignated hospitals.

• Currently, the wage index value for an urban area is calculated exclusive of the wage data for hospitals that have been reclassified to another area.

For the FY 2002 wage index, we include the wage data for a reclassified urban hospital in both the area to which it is reclassified and the MSA where the hospital is physically located. We believe this improves consistency and predictability in hospital reclassification and wage indexes, as well as alleviates the fluctuations in the wage indexes due to reclassifications. For example, hospitals applying to reclassify into another area will know which hospitals' data will be included in calculating the wage index, because even if some hospitals in the area are reclassified, their data will be included in the calculation of the wage index of the area where they are geographically located. Also, in some cases, excluding the data of hospitals reclassified to another MSA could have a large downward impact on the wage index of the MSA in which the hospital is physically located. The negative impact of removing the data of the reclassified hospitals from the wage index calculation could lead to large wage disparities between the reclassified hospitals and other hospitals in the MSA, as the remaining hospitals would receive reduced payments due to a lower wage index. Our approach is to promote consistency and simplify our rules with respect to how we construct the wage indexes of rural and urban areas. As noted above, in the case of rural hospitals redesignated to another area, the wage index of the rural area where the hospitals are geographically located is calculated by including the wage data of the redesignated hospitals (unless doing so would result in a lower wage index).

Finally, we note that the Medicare Payment Advisory Commission (MedPAC), in its March 2001 ''Report to the Congress: Medicare Payment Policy,'' recommended this policy (p. 82). (Section VII. of this preamble includes a discussion of MedPAC's recommendations and our responses.) To illustrate the potential negative impact on hospitals in an area where reclassifications of some hospitals to another area results in a decline in the wage index after the reclassified hospitals are excluded from the wage

index calculation, MedPAC points out that hospitals in several MSAs have organized to pay qualifying hospitals not to reclassify. Our policy change in this final rule removes this distorted incentive.

*Comment:* One commenter had some concerns about the reclassification of rural hospitals. This commenter had two points. The first point was that rural hospitals that seek reclassification to urban areas and end up ''empty'' because all the urban hospitals have successfully sought reclassification elsewhere continue to be disadvantaged because the rural hospitals continue to compete with the urban hospitals in that area, but those urban hospitals are receiving even higher payments, while the rural hospitals are not receiving the same payments. The commenter believed that the solution to this dilemma is to allow the rural hospitals that seek reclassification to an ''empty'' MSA to receive the same wage index as the urban hospitals that were able to reclassify out of that MSA, essentially reclassifying both the urban hospitals and the proximate rural hospitals to the same area. One other commenter made this same point about urban hospitals.

The commenter's second point was that, periodically, based on updated census data, new MSAs appear. Sometimes, a rural hospital seeking reclassification to the nearest MSA or rural area is disadvantaged when this occurs because reclassification to the new MSA does not afford the rural hospital the same advantages as reclassification to the MSA to which it formerly sought reclassification, but now is not the closest MSA. The commenter wrote that rural hospitals previously qualified for geographic reclassification to an MSA should retain the option to reclassify to that MSA despite the fact that a closer MSA is created.

*Response:* First, both rural and, for FY 2002, urban hospitals are advantaged by the fact that we hold all areas harmless when calculating the wage index for hospitals reclassifying into both MSAs and rural areas. While we understand the commenter's point about its competitors, we do not believe that this justifies a ''piggyback'' effect for reclassification purposes wherein either rural or urban hospitals that obtain reclassification into an empty MSA should then be reclassified again to an area to which these hospitals are not proximate. Since a hospital in this type of situation could not obtain reclassification on its own to the area to which the hospitals that have vacated the MSA have reclassified, we do not believe that it would be appropriate to reclassify them based on the reclassification of another hospital.

Second, a hospital that is not subject to the proximity criteria because it has a special status as either a rural referral center or a SCH already has an advantage over other reclassifying hospitals in that it can utilize a larger radius in seeking reclassification opportunities (under § 412.230(a)(3)). Rural referral centers and SCHs may also reclassify to any MSA to which they qualify under § 412.230(b). We believe these criteria provide adequate opportunity for rural referral centers and SCHs to reclassify.

*Comment:* Commenters generally supported our proposal to include the wage data for a reclassified urban hospital in both the area to which it is reclassified and the MSA where the hospital is physically located. The commenters expressed that this would provide more stability in the calculation of the wage index, allowing them to plan their budgets from year-to-year with more predictability.

We did not receive any negative comments on this proposal; however, we did receive one additional comment that encouraged us to extend the hold harmless provision to a further degree. This commenter believed that both rural and urban hospitals should benefit from the same hold-harmless policy. In other words, an urban hospital's wage data should be included in the area in which it is physically located if it benefits the area. However, The commenter further stated that, on the other hand, if it benefits the area to exclude that hospital's wage data in the event the hospital successfully seeks reclassification for the wage index to another area, then the hospital's data should be excluded. The commenter believed that some urban areas may be harmed by retaining the wage data of urban hospitals that are reclassifying out of those areas.

*Response:* We appreciate the commenters' support of our proposal to retain an urban hospital's wage data in the area in which it is physically located, even if that hospital successfully seeks reclassification to another area. As we proposed in the proposed rule, in this final rule we are calculating the wage index for urban areas effective for FY 2002 payments by including the wage data for a reclassified urban hospital in both the area to which it is reclassified and the MSA where the hospital is physically located.

In reference to the commenter who believed that we should apply the same hold-harmless policy to urban hospitals as we do to rural hospitals, we note that the rural hold-harmless policy (as described above) is dictated by section 1886(d)(8)(C)(iii) of the Act. We believe that hospitals continue to compete for services with the hospitals that are grouped with them in their respective MSAs. Therefore, it would be appropriate to continue to calculate the wage index for those areas as if those hospitals had not reclassified to another area. As a result, we intend to implement our policy to hold urban areas harmless to the extent that the wages of the hospitals that are physically located within urban areas will continue to be used in the compilation of the wage index whether or not these hospitals successfully seek reclassification elsewhere.

*Comment:* Several commenters expressed interest in utilizing the occupational mix data to apply for reclassification for the wage index. These commenters pointed out that, at one time, hospitals did have the option to use occupational mix data to seek reclassification for the wage index as those data were made available by the AHA. In addition to the other applicable criteria for reclassification, a hospital that applied for reclassification for the wage index using this criterion was required to show that its average hourly wage, based on occupational mix data, was 90 percent of the area to which it sought reclassification.

*Response:* Prior to requests for reclassification effective during FY 1999, a hospital could be reclassified for the wage index by showing that its average hourly wage weighted for occupational categories was at least 90 percent of the average hourly wage of the hospitals in the area to which it sought reclassification (in addition to the other applicable criteria for reclassification). Occupational mix data were available from the AHA; however, the AHA stopped collecting the data in 1993. Therefore, because there was no other suitable source of occupational mix data for hospitals to use, we eliminated the option for using this data effective with reclassification requests for FY 1999 (62 FR 45988).

Section 304(c) of Public Law 106–554 requires that the Secretary must provide for the collection of data every 3 years on the occupational mix of employees for each short-term, acute care hospital participating in the Medicare program, in order to construct an occupational mix adjustment to the wage index. These data are to be collected by September 30, 2003. Section 304(c) also requires that the data are to be applied in the wage index by October 1, 2004. At that point, the data will be incorporated into a hospital's average

hourly wages. Therefore, the occupational mix data will be reflected in hospital reclassifications for the wage index as it is incorporated into the wage index data. In addition, as soon as viable occupational mix data become available, we will consider providing hospitals with the opportunity to use it to support their reclassification requests.

The wage index values for FY 2002 are shown in Tables 4A, 4B, 4C, and 4F in the Addendum to this final rule. Hospitals that are redesignated should use the wage index values shown in Table 4C. Areas in Table 4C may have more than one wage index value because the wage index value for a redesignated urban or rural hospital cannot be reduced below the wage index value for the rural areas of the State in which the hospital is located. When the wage index value of the area to which a hospital is redesignated is lower than the wage index value for the rural areas of the State in which the hospital is located, the redesignated hospital receives the higher wage index value; that is, the wage index value for the rural areas of the State in which it is located, rather than the wage index value otherwise applicable to the redesignated hospitals.

As mentioned earlier, section 304(a) of Public Law 106–554 amended section 1886(d)(10)(D) of the Act by adding a new clause (v) to provide that a reclassification of a hospital by the MGCRB for purposes of the wage index is effective for 3 years (instead of 1 year) unless, under procedures established by the Secretary, the hospital elects to terminate the reclassification before the end of the 3-year period. Section 304(a) of Public Law 106–554 also amended section 1886(d)(10)(D) of the Act to specify that, for applications for reclassification for the wage index for FYs 2003 and later, the MGCRB must base any comparison of the average hourly wage of the hospital with the average hourly wage for hospitals in the area in which it is located and the area to which it seeks reclassification, using data from the most recently published hospital wage survey (as of the date of the hospital's application), as well as data from each of the two immediately preceding surveys. (Our policies in this final rule to incorporate the provisions of section 304(a) of Public Law 106–554 in the regulations are addressed in section IV.G. of this final rule).

Consistent with the section 304(a) amendment, Tables 3A and 3B list the 3-year average hourly wage for each labor market area before the redesignation of hospitals, based on FY 1996, 1997, and 1998 wage data. Table 3A lists these data for urban areas and Table 3B lists these data for rural areas. In addition, Table 2 in the Addendum to this final rule includes the adjusted average hourly wage for each hospital from the FY 1996 and FY 1997 cost reporting periods, as well as the FY 1998 period used to calculate the FY 2002 wage index. Table 2 also shows the 3-year average that the MGCRB will use to evaluate a hospital's application for reclassification for FY 2003 (unless that average hourly wage is later revised in accordance with § 412.63(w)(2)). The 3-year averages are calculated by dividing the sum of the dollars (adjusted to a common reporting period using the method described previously in this section) across all 3 years, by the sum of the hours. If a hospital is missing data for any of the previous years, its average hourly wage for the 3-year period is calculated based on the data available during that period.

Applications for FY 2003 reclassifications are due to the MGCRB by September 4, 2001. (We note that, as of May 21, 2001, the new location and mailing address of the MGCRB and the Provider Reimbursement Review Board (PRRB) is: 2520 Lord Baltimore Drive, Suite L, Baltimore, MD 21244–2670. Also, please specify whether the mail is intended for the MGCRB or the PRRB.)

We indicated in the proposed rule that, at the time the proposed wage index was constructed, the MGCRB had completed its review of FY 2002 reclassification requests. The final FY 2002 wage index values incorporate all 643 hospitals redesignated for purposes of the wage index (hospitals redesignated under section 1886(d)(8)(B) or section 1886(d)(10) of the Act for FY 2002. Since publication of the May 4 proposed rule, the number of reclassifications has changed because some MGCRB decisions were still under review by the Administrator and because some hospitals decided to withdraw their requests for reclassification.

Changes to the wage index that resulted from withdrawals of requests for reclassification, wage index corrections, appeals, and the Administrator's review process have been incorporated into the wage index values published in this final rule. The changes may affect not only the wage index value for specific geographic areas, but also the wage index value redesignated hospitals receive; that is, whether they receive the wage index value for the area to which they are redesignated, or a wage index value that includes the data for both the hospitals already in the area and the redesignated hospitals. Further, the wage index value for the area from which the hospitals are redesignated may be affected.

Under § 412.273, hospitals that have been reclassified by the MGCRB were permitted to withdraw their applications within 45 days of the publication of the May 4, 2001 proposed rule. The request for withdrawal of an application for reclassification that would be effective in FY 2002 had to be received by the MGCRB by June 18, 2001. A hospital that requested to withdraw its application may not later request that the MGCRB decision be reinstated.

In addition, because the 3-year effect of the amendment made by section 304(a) of Public Law 106–554 is applicable to reclassifications for FY 2001 (which had already taken place prior to the date of enactment of Public Law 106–554) and because the application process for reclassification for FY 2002 had already been completed by the date of enactment, we are deeming hospitals that are reclassified for purposes of the wage index to one area for FY 2001 and are reclassified for purposes of the wage index or the standardized amount to another area for FY 2002 to be reclassified to the area for which they applied for FY 2002, unless they elected to receive the wage index reclassification they were granted for FY 2001. Consistent with our application withdrawal procedures under § 412.273, we allowed hospitals that wished to receive, for FY 2002, the reclassification they were granted for FY 2001, to withdraw their applications by June 18, 2001 also.

*Comment:* Two commenters requested us to continue publishing the case-mix index because it assists hospitals in monitoring possible referral center qualifying status and in preparing applications for reclassification to use another area's standardized amount. (We also received numerous telephone calls with this request.)

*Response:* Prior to this year, the case-mix index was published in Table 3C. This index shows the average DRG relative weight for discharges from a prior fiscal year. Due to the requirement to publish so much additional average hourly wage data in Tables 2, 3A, and 3B, we stopped publishing the case-mix index beginning with the May 4, 2001 proposed rule.

In light of public comments and in balancing the requirements for additional publication of average hourly wage data, we will resume publishing the case-mix index, but not in the **Federal Register**. Beginning with the publication date of this final rule, we will make the case-mix index for FY 2000 and future fiscal years available on

the internet at: http://www.hcfa.gov/medicare/ippsmain.htm. We intend to update the case-mix index at this website to coincide with the publication of the annual proposed and final rules.

3. Statewide Wage Index

As stated earlier, section 304(b) of Public Law 106–554 requires the Secretary to establish, by October 1, 2001, a process (based on the voluntary process utilized by the Secretary under section 1848 of the Act) under which an appropriate statewide entity may apply to have all the geographic areas in the State treated as a single geographic area for purposes of computing and applying a single wage index, beginning in FY 2003. Section 304(b) further requires that, if the Secretary applies a statewide wage index to an area, an application by an individual hospital in that area would not be considered. We believe the reference to the voluntary process utilized by the Secretary under section 1848 of the Act refers to the process whereby we allow a State containing multiple physician fee schedule payment areas (and thus multiple geographic adjustment factors) to voluntarily convert to a single statewide payment area with a single geographic adjustment factor (see § 414.4(b), as discussed in the June 24, 1994 **Federal Register** (59 FR 32759).

Section IV.G. of this final rule contains our policy for implementing the provisions of section 304(b) in regulations. We are providing that hospitals that seek a statewide geographic reclassification under the amendments made by section 304(b) of Public Law 106–554 must apply to the MGCRB with the same deadlines as other hospitals. An approved application by the MGCRB will mean that the data of all the hospitals in the State will be used in computing and applying the wage index for that State. We are providing that the statewide wage index is applicable for 3 years from the date of approval or until all of the participating hospitals terminate their approved statewide wage index reclassification (effective with the next full fiscal year after their termination request), whichever occurs first.

4. Section 402 of Public Law 106–113

Beginning October 1, 1988, section 1886(d)(8)(B) of the Act required us to treat a hospital located in a rural county adjacent to one or more urban areas as being located in the MSA to which the greatest number of workers in the county commute, if the rural county would otherwise be considered part of an urban area under the standards published in the **Federal Register** on January 3, 1980 (45 FR 956) for designating MSAs (and for designating NECMAs), and if the commuting rates used in determining outlying counties (or, for New England, similar recognized areas) were determined on the basis of the aggregate number of resident workers who commute to (and, if applicable under the standards, from) the central county or counties of *all* contiguous MSAs (or NECMAs)). Hospitals that met the criteria using the January 3, 1980 version of these OMB standards were deemed urban for purposes of the standardized amounts and for purposes of assigning the wage index.

During FY 1994, we incorporated the revised MSA definitions based on 1990 census population data. As a result, some counties that previously were treated as an adjacent county under section 1886(d)(8)(B) of the Act officially became part of certain MSAs. However, as specified in the Act, we continued to utilize the January 3, 1980 standards. For FY 2000, there were 27 hospitals in 22 counties affected by this provision.

On March 30, 1990, OMB issued revised 1990 standards (55 FR 12154). There has been an increasing amount of interest by the hospital industry in using the 1990 standards as opposed to the 1980 standards to determine which hospitals qualify under the provisions set forth in section 1886(d)(8)(B) of the Act. Section 402 of Public Law 106–113 provides that, with respect to FYs 2001 and 2002, a hospital may elect to have the 1990 standards applied to it for purposes of section 1886(d)(8)(B) and that, beginning with FY 2003, hospitals will be required to use the standards published in the **Federal Register** by the Director of OMB based on the most recent decennial census.

We worked with staff of the Population Distribution Branch within the Population Division of the Census Bureau to compile a list of hospitals that meet the March 30, 1990 standards using 1990 census population data and information prepared for the Metropolitan Area Standards Review Project. The conditions that must be met for a hospital located in a rural county adjacent to one or more urban areas to be treated as being located in the urban area to which the greatest number of workers in the rural county commute are as follows:

- The rural county would otherwise be considered part of an MSA but for the fact that the rural county does not meet the standard established by OMB relating to the commuting rate of workers between the county and the central county or counties of any adjacent MSA.
- The county would meet the commuting standard if commuting to (and where applicable, from) the central county or central counties of all adjacent MSAs or NECMAs (rather than to just one) were considered.

A county meeting the above commuting standards must also meet the other standards established by OMB for inclusion in an MSA as an outlying county. In order to meet these requirements, the rural county must have a degree of ''metropolitan character.'' ''Metropolitan character'' is established by meeting one of the following OMB standards, which were published in the **Federal Register** on March 30, 1990:

a. At least 50 percent of the employed workers residing in the county commute to the central county/counties, and either—

- The population density of the county is at least 25 persons per square mile; or
- At least 10 percent of the population, or at least 5,000 persons, lives in the qualifier urbanized area(s).

b. From 40 to 50 percent of the employed workers commute to the central county/counties, and either—

- The population density is at least 35 persons per square mile; or
- At least 10 percent of the population, or at least 5,000 persons, lives in the qualifier urbanized area(s).

c. From 25 to 40 percent of the employed workers commute to the central county/counties and either the population density of the county is at least 50 persons per square mile, or any two of the following conditions exist:

- Population density is at least 35 persons per square mile.
- At least 35 percent of the population is urban.
- At least 10 percent of the population, or at least 5,000 persons, lives in the qualifier urbanizer area(s).

d. From 15 to 25 percent of the employed workers commute to the central county/counties, the population density of the county is at least 50 persons per square mile, and any two of the following conditions also exist:

- Population density is at least 60 persons per square mile.
- At least 35 percent of the population is urban.
- Population growth between the last two decennial censuses is at least 20 percent.
- At least 10 percent of the population, or at least 5,000 persons, lives in the qualifier urbanized area(s).

Also accepted as meeting this commuting requirement under item d. are:

• The number of persons working in the county who live in the central county/counties is equal to at least 15 percent of the number of employed workers living in the county; or

• The sum of the number of workers commuting to and from the central county/counties is equal to at least 20 percent of the number of employed workers living in the county.

e. From 15 to 25 percent of the employed workers commute to the central county/counties, the population density of the county is less than 50 persons per square mile, and any two of the following conditions also exist:

• At least 35 percent of the population is urban.

• Population growth between the last two decennial censuses is at least 20 percent.

• At least 10 percent of the population, or at least 5,000 persons, lives in the qualifier urbanized area(s).

f. At least 2,500 of the population lives in a central city of the MSA located in the qualifier urbanized area(s).

When we apply the 1990 standards as opposed to 1980 standards, the number of qualifying counties increases from 22 to 31. On the basis of the evaluation of these data, effective for discharges occurring on or after October 1, 2001, hospitals listed in the first column of the following table are considered, for purposes of assigning the inpatient standardized amount and the wage index, to be located in the corresponding urban area in the second column:

| Rural county | MSA |
|---|---|
| Chilton, AL | Birmingham, AL |
| Marshall, AL | Huntsville, AL |
| Talladega, AL | Anniston, AL |
| Bradford, FL | Jacksonville, FL |
| Hendry, FL | West Palm Beach-Boca Raton, FL |
| Putnam, FL | Gainesville, FL |
| Jackson, GA | Athens, GA |
| Christian, IL | Springfield, IL |
| Macoupin, IL | St. Louis, MO–IL |
| Piatt, IL | Champaign-Urbana, IL |
| Brown, IN | Indianapolis, IN |
| Carroll, IN | Lafayette, IN |
| Henry, IN | Indianapolis, IN |
| Jefferson, KS | Topeka, KS |
| Barry, MI | Kalamazoo-Battle Creek, MI |
| Cass, MI | Benton Harbor, MI |
| Ionia, MI | Grand Rapids-Muskegon-Holland, MI |
| Shiawassee, MI | Flint, MI |
| Tuscola, MI | Saginaw-Bay City-Midland, MI |
| Caswell, NC | Greensboro-Winston Salem-High Point, NC |
| Greene, NC | Greenville, NC |
| Harnett, NC | Raleigh-Durham-Chapel Hill, NC |
| Wilson, NC | Rocky Mount, NC |
| Preble, OH | Dayton-Springfield, OH |
| Van Wert, OH | Lima, OH |
| Adams, PA | York, PA |
| Lawrence, PA | Pittsburgh, PA |
| Monroe, PA | Newark, NJ |
| Schuylkill, PA | Reading, PA |
| Jefferson, WI | Milwaukee-Waukesha, WI |
| Walworth, WI | Milwaukee-Waukesha, WI |

There are 14 counties that meet the qualifying criteria using 1990 standards that did not meet the criteria using the 1980 standards. These 14 counties are:

Chilton, AL
Talladega, AL
Bradford, FL
Hendry, FL
Putnam, FL
Jackson, GA
Piatt, IL
Brown, IN
Carroll, IN
Greene, NC
Wilson, NC
Adams, PA
Monroe, PA
Schuylkill, PA.

In addition, when we apply the 1980 standards for three of the counties, the MSA assigned is different from the MSA that would be assigned using the 1990 standards. These counties are as follows:

| Rural county | 1980 MSA designation | 1990 MSA designation |
|---|---|---|
| Ionia, MI | Lansing-East Lansing, MI | Grand Rapids-Muskegon-Holland, MI. |
| Caswell, NC | Danville, VA | Greensboro-Winston Salem-High Point, NC. |
| Harnett, NC | Fayetteville, NC | Raleigh-Durham-Chapel Hill, NC. |

Section 402 of Public Law 106–113 states that hospitals may elect to use either the January 3, 1980 standards or the March 30, 1990 standards for payments during FY 2001 and FY 2002. We are assuming hospitals will elect to go to the MSA resulting in the highest payment amount accounting for the applicable wage indexes and standardized amounts. Based on our analysis, we believe all hospitals in the designated rural counties would benefit by being included in the respective MSAs shown above. Therefore, we proposed to assign the FY 2002

standardized amount and wage index of each respective MSA to the affected hospitals. Hospitals electing not to use the 1990 standards would be required to notify their fiscal intermediary in writing of such election prior to September 1, 2001, in order to allow sufficient time to reflect this change in our payment systems.

We note that five rural counties no longer meet the qualifying criteria when we apply the revised OMB standards. These rural counties are as follows: Indian River, FL; Mason, IL; Owen, IN; Morrow, OH; and Lincoln, WV. For FY 2002, we continue to treat these hospitals as attached to an MSA on the basis of the 1980 standards. Beginning FY 2003, they must meet the 1990 standards to continue to be treated as such.

We stated in the August 1, 2000 final rule that implemented changes to the prospective payment system for FY 2001 that we were in the process of working with OMB to identify the hospitals that would be affected by section 402 of Public Law 106–113 (65 FR 47076). We further indicated we would revise payments to hospitals in the affected counties as soon as data were available. Now that the affected counties have been identified, hospitals in the 14 counties identified above will be offered the opportunity to elect this designation, as previously described. We will provide further information related to this election, including recalculated wage indexes, through a forthcoming program memorandum.

Finally, three hospitals located in counties affected by the revised OMB standards also have been reclassified by the MGCRB. The affected hospitals are listed below. If the hospitals did not wish to be reclassified for FY 2002 based on their new designation as described above, they had to follow the procedures described above for requesting that their application for reclassification be withdrawn.

| Provider No. | 1990 MSA Designation | FY 2002 reclassification, MSA |
|---|---|---|
| 34–0071 | Raleigh-Durham-Chapel Hill, NC | Fayetteville, NC. |
| 34–0124 | Raleigh-Durham-Chapel Hill, NC | Fayetteville, NC. |
| 34–0126 | Rocky Mount, NC | Raleigh-Durham-Chapel Hill, NC (wage index only). |

5. Provisions of the August 1, 2000 Interim Final Rule: Sections 152(a), 153, and 154a) of Public Law 106–113

In the August 1, 2000 interim final rule with comment period, we implemented sections 152(a), 153, and 154(a) of Public Law 106–113. These sections contained provisions under which hospitals in certain counties are deemed to be located in specified areas for purposes of payment under the hospital inpatient prospective payment system, for discharges occurring during FY 2000. For payment purposes, hospitals under section 152(a) are to be treated as though they were reclassified for purposes of both the standardized amount and the wage index. Sections 153 and 154(a) did not affect the standardized amount. In the interim final rule, we calculated FY 2000 wage indexes for hospitals in the affected counties. These wage indexes are listed below. No other hospitals' FY 2000 wage indexes were affected, including those hospitals in the areas to which these affected hospitals were reclassified, as well as nonreclassified hospitals located in the areas from which these hospitals were reclassified.

We also implemented section 152(a), which provided that, for purposes of making payments under section 1886(d) of the Act for FY 2000—

- To hospitals in Iredell County, North Carolina, Iredell County was deemed to be located in the Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina MSA;
- To hospitals in Orange County, New York, Orange County was deemed to be located in the New York, New York MSA;
- To hospitals in Lake County, Indiana and Lee County, Illinois, Lake County and Lee County were deemed to be located in the Chicago, Illinois MSA;
- To hospitals in Hamilton-Middletown, Ohio, Hamilton-Middletown was deemed to be located in the Cincinnati, Ohio-Kentucky-Indiana MSA;
- To hospitals in Brazoria County, Texas, Brazoria County was deemed to be located in the Houston, Texas MSA;
- To hospitals in Chittenden County, Vermont, Chittenden County was deemed to be located in the Boston-Worcester-Lawrence-Lowell-Brockton, Massachusetts-New Hampshire MSA.

In accordance with section 153 of Public Law 106–113, for discharges occurring during FY 2000, the Hattiesburg, Mississippi MSA wage index was recalculated by including the wage data for Wesley Medical Center. In accordance with section 154(a), the Allentown-Bethlehem-Easton, Pennsylvania MSA FY 2000 wage index was recalculated by including the wage data for Lehigh Valley Hospital.

The following table shows the changes to the FY 2000 wage index values for the hospitals in the affected counties. Hospitals affected by section 152(a) of Public Law 106–113 were also considered reclassified for purposes of the standardized amount.

| County or MSA | New MSA (for wage index and standardized amount) | New wage index | New Georgraphic Adjustment Factor (GAF) |
|---|---|---|---|
| Iredell County, NC | 1520 | 0.9434 | 0.9609 |
| Orange County, NY | 5600 | 1.4342 | 1.2801 |
| Lake County, IN | 1600 | 1.0750 | 1.0508 |
| Lee County, IL | 1600 | 1.0750 | 1.0508 |
| Hamilton-Middletown, OH | 1640 | 0.9419 | 0.9598 |
| Brazoria County, TX | 3360 | 0.9388 | 0.9577 |
| Chittenden County, VT | 1123 | 1.1359 | 1.0912 |
| Hattiesburg, MS MSA | 3285 | 0.7634 | 0.8312 |
| Allentown-Bethlehem-Easton, PA MSA | 0240 | 1.0228 | 1.0156 |

*G. Requests for Wage Data Corrections*

In the May 4, 2000 proposed rule, we stated that, to allow hospitals time to construct the proposed FY 2002 hospital wage index, we would make available in May 2001 a final public data file containing the FY 1998 hospital wage data.

The final wage data file was released on May 4, 2001. As noted above in section III.D. of this preamble, this file included hospitals' cost report data obtained from Worksheet S–3, Parts II and III of their FY 1998 Medicare cost reports. In addition, Table 2 in the Addendum to this final rule contains each hospital's adjusted average hourly wage used to construct the wage index values for the past 3 years, including the FY 1998 data used to construct the final FY 2002 wage index.

Under revised procedures, hospitals were given an opportunity to correct any incorrectly reported FY 1998 wage data on their cost reports and submit complete detailed supporting documentation to their intermediaries by March 9, 2001. Wage data corrections had to be reviewed and verified by the intermediary and transmitted to HCFA on or before April 9, 2001. These deadlines were necessary to allow sufficient time to review and process the data so that the final wage index calculation could be completed for development of the final prospective payment rates in this final rule.

We created the process described above to resolve all substantive wage data correction disputes before we finalize the wage data for the FY 2002 payment rates. Accordingly, hospitals that did not meet the procedural deadlines set forth above were not afforded a later opportunity to submit wage data corrections or to dispute the intermediary's decision with respect to requested changes. Specifically, our policy is that hospitals that do not meet the procedural deadlines set forth above will not be permitted to later challenge, before the Provider Reimbursement Review Board, HCFA's failure to make a requested data revision (See *W. A. Foote Memorial Hospital v. Shalala,* No. 99–CV–75202–DT (E.D. Mich. 2001)).

As stated above, the final wage data public use file was released on May 4, 2001. Hospitals had an opportunity to examine both Table 2 of the proposed rule and the May 4 final public use wage data file (which reflected revisions to the data used to calculate the values in Table 2) to verify the data HCFA was using to calculate the wage index. Hospitals had until June 4, 2001, to submit requests to correct errors in the final wage data due to data entry or tabulation errors by the intermediary or HCFA. The correction requests considered at that time were limited to errors in the entry or tabulation of the final wage data that the hospital could not have known about before the release of the final wage data public use file.

If, after reviewing the May 2001 final data file, a hospital believed that its wage data are incorrect due to a fiscal intermediary or HCFA error in the entry or tabulation of the final wage data, it was provided an opportunity to send a letter to both its fiscal intermediary and HCFA, outlining why the hospital believed an error exists and provide all supporting information, including dates. These requests had to be received by us and the intermediaries no later than June 4, 2001.

Changes to the hospital wage data were made in those very limited situations involving an error by the intermediary or HCFA that the hospital could not have known about before its review of the final wage data file. Specifically, neither the intermediary nor HCFA accepted the following types of requests at that stage of the process:

- Requests for wage data corrections that were submitted too late to be included in the data transmitted to HCFA on or before April 9, 2001.
- Requests for correction of errors that were not, but could have been, identified during the hospital's review of the February 2001 wage data file.
- Requests to revisit factual determinations or policy interpretations made by the intermediary or HCFA during the wage data correction process.

Verified corrections to the wage index received timely (that is, by June 4, 2001) are incorporated into the final wage index in this final rule, to be effective October 1, 2001.

Again, we believe the wage data correction process described above provides hospitals with sufficient opportunity to bring errors in their wage data to the intermediary's attention. Moreover, because hospitals had access to the final wage data by early May 2001, they had the opportunity to detect any data entry or tabulation errors made by the intermediary or HCFA before the development and publication of the FY 2002 wage index and its implementation on October 1, 2001. If hospitals availed themselves of this opportunity, the wage index implemented on October 1 should be accurate. Nevertheless, in the event that errors are identified after that date, we retain the right to make midyear changes to the wage index under very limited circumstances.

Specifically, in accordance with § 412.63(w)(2), we may make midyear corrections to the wage index only in those limited circumstances in which a hospital can show (1) that the intermediary or HCFA made an error in tabulating its data; and (2) that the hospital could not have known about the error, or did not have an opportunity to correct the error, before the beginning of FY 2002 (that is, by the June 4, 2001 deadline). As indicated earlier, since a hospital had the opportunity to verify its data, and the intermediary notified the hospital of any changes, we do not foresee any specific circumstances under which midyear corrections would be necessary. However, should a midyear correction be necessary, the wage index-change for the affected area will be effective prospectively from the date the correction is made.

*H. Modification of the Process and Timetable for Updating the Wage Index*

Although the wage data correction process described above has proven successful in the past for ensuring that the wage data used each year to calculate the wage indexes are generally reliable and accurate, we are concerned about the growing volume of wage data revisions initiated by hospitals during February and the first week of March. We first discussed this issue in the FY 1998 proposed rule (62 FR 29918). At that time, we noted that, in developing the FY 1997 wage index, the wage data were revised between the proposed and final rules for more than 13 percent of the hospitals (approximately 700 of 5,200). Last year, in developing the FY 2001 wage index, the wage data were revised between the proposed and final rules for more than 32 percent of the hospitals (1,605 of 4,950). This year, in developing the FY 2002 wage index, the wage data were revised between the proposed rule and the final rule for 30 percent of the hospitals (1,473 of 4,910).

In the May 4, 2001 proposed rule, we indicated that since hospitals are expected to submit complete and accurate cost report data, and intermediaries review and request hospitals to correct problematic wage data before the data are submitted to HCFA in mid-November, we believed there should be limited revisions at this stage of the process. We reminded the hospital community that the primary purpose of this file is to allow hospitals to verify that we have their correct data on file. However, according to information received from the intermediaries, these late revisions are frequently due to hospitals' lack of responsiveness in providing sufficient information to the intermediaries during the desk reviews (that is, during the

intermediary's review of the hospital's cost report).

In the proposed rule, we proposed two changes to the wage index development process and timetable beginning with the FY 2003 wage index. We believed these changes would encourage earlier submissions of wage data revisions by hospitals and would allow intermediaries more time to address the heavy volume of revisions requested after the intermediaries have completed their desk reviews of these data. First, we proposed to release the preliminary wage data file by early January rather than early February. As with the current preliminary file, the January file would include desk reviewed wage data that intermediaries submitted to us by November of the previous year and any timely revisions we received from intermediaries prior to release of the January file. Hospitals would be allowed until early February to submit requests for wage data revisions to their intermediaries. Second, intermediaries would be allowed approximately 8 weeks from the hospitals' deadline for submitting revision requests (that is, until early March) to review and transmit revised wage data to us.

We believed that the proposed revised schedule would improve the quality of the wage index by allowing intermediaries more time to sufficiently review wage data revisions before the data are submitted to us. Further, we believed the proposed revised process would encourage hospitals to submit revisions earlier, so the proposed wage index, from which hospitals base geographic reclassification decisions, is more accurate.

The timetable for developing the annual update to the wage index is as follows (an asterisk indicates no change from prior years):

Mid-November *

All desk reviews for hospitals wage data are completed and revised data transmitted by the fiscal intermediaries to HCRIS.

Early December *

CMS compiles file of wage data, received by mid-November, and sends it to the fiscal intermediaries for verification.

Early January

Edited wage data are available for release to the public.

Early February

Deadline for hospitals to request wage data revisions and provide adequate documentation to support the request.

April/May *

Proposed rule published with 60-day comment period and 45-day withdrawal deadline for hospitals applying for geographic reclassification.

Early April *

Deadline for the fiscal intermediaries to submit all revisions resulting from the hospitals' requests for adjustments (as of early February) (and verification of data submitted as of early January).

Deadline for hospital's to request CMS's intervention in cases where the hospital disagrees with the fiscal intermediary's policy interpretations pertaining to the allowability of particular costs.

Late April *

Fiscal intermediaries will alert hospitals to the availability of the final wage data file for their review and inform hospitals of the June deadline for hospitals to submit correction requests for corrections to errors due to CMS or fiscal intermediary mishandling of the final wage data.

Early May *

Release of final wage data public use file on CMS web page and through public use files office.

Early June *

Deadline for hospitals to submit correction requests to both CMS and the fiscal intermediaries to correct errors due to CMS or fiscal intermediary mishandling of the final wage data.

August 1 *

Publication of the final rule.

October 1 *

Effective date of updated wage index.

*Comment:* One commenter agreed, in general, with the premise of the proposed revised schedule. The commenter recommended that we publish the preliminary wage data file in August, using data from the hospitals' as-filed cost reports before fiscal intermediaries begin the wage index desk reviews. Hospitals would then have until October 1 to submit requests, along with supporting documentation, to correct errors. The commenter's proposal would give fiscal intermediaries until November 30 to complete the desk review and transmit the wage index data to us. The commenter believed that implementation of the recommended schedule eliminates the fiscal intermediary's duplication of effort (that is, reviewing the data a second time when hospitals request changes after the desk review, and then resubmitting the data to us) that exists in the current process.

*Response:* We appreciate the commenter's general support for our proposal to revise the wage index schedule, and we will give the commenter's recommended process careful consideration in developing future updates to the wage index. Having received no other comments opposing our proposed schedule, we will implement that schedule, beginning with the FY 2003 wage index. We believe that our revised schedule is a logical step in the evolution of the wage index development process. We will monitor the effectiveness of the revised schedule.

## IV. Other Decisions and Changes to the Prospective Payment System for Inpatient Operating Costs and Graduate Medical Education Costs

### *A. Sole Community Hospitals (SCHs) (§§ 412.63, 412.71, 412.72, 412.73, 412.75, 412.77, and 412.92)*

For the benefit of the reader, in this final rule, we are discussing and clarifying many of the rules and policies governing SCHs because of the legislative changes that have occurred in recent years. It has been several years since the SCH criteria have been published in one location. Rather than continue to refer to various **Federal Register** documents and sections of the Code of Federal Regulations, we are publishing a detailed discussion of these policies, making further changes to incorporate the provisions of sections 213, 302, 303, 304, and 311 of Public Law 106–554, and clarifying other related policies.

Under the hospital inpatient prospective payment system, special payment protections are provided to an SCH. Section 1886(d)(5)(D)(iii) of the Act defines an SCH as a hospital that, by reason of factors such as isolated location, weather conditions, travel conditions, absence of other like hospitals (as determined by the Secretary), or historical designation by the Secretary as an Essential Access Community Hospital (EACH), is the sole source of inpatient hospital services reasonably available to Medicare beneficiaries. The regulations that set forth the criteria that a hospital must meet to be classified as an SCH are at § 412.92. To be classified as an SCH, a hospital must either have been designated as an SCH prior to the beginning of the prospective payment system on October 1, 1983, and must be located more than 35 miles from other like hospitals, or the hospital must be

located in a rural area and meet one of the following requirements:

• It is located more than 35 miles from other like hospitals.

• It is located between 25 and 35 miles from other like hospitals, and it—

—Serves at least 75 percent of all inpatients, or 75 percent of Medicare beneficiary inpatients, within a 35-mile radius or, if larger, within its service area; or

—Has fewer than 50 beds and would qualify on the basis of serving 75 percent of its area s inpatients except that some patients seek specialized care unavailable at the hospital.

• It is located between 15 and 25 miles from other like hospitals, and because of local topography or extreme weather conditions, the other like hospitals are inaccessible for at least 30 days in each of 2 out of 3 years.

• The travel time between the hospital and the nearest like hospital is at least 45 minutes because of distance, posted speed limits, and predictable weather conditions.

Effective with hospital cost reporting periods beginning on or after April 1, 1990, section 1886(d)(5)(D)(i) of the Act, as amended by section 6003(e) of Public Law 101–239, provides that SCHs are paid based on whichever of the following rates yields the greatest aggregate payment:

• The Federal rate applicable to the hospital.

• The updated hospital-specific rate based on FY 1982 costs per discharge.

• The updated hospital-specific rate based on FY 1987 costs per discharge.

Effective with hospital cost reporting periods beginning on or after October 1, 2000, section 1886(b)(3)(I)(i) of the Act, as added by section 405 of Public Law 106–113 and amended by section 213 of Public Law 106–554, provides for other options, in addition to the three bulleted options in the above paragraph, for determining which rate would yield the greatest aggregate payment. For discharges for FY 2001 through FY 2003, these additional optional rates are—

• A phase-in blended rate of the updated hospital-specific rate based on FY 1982 costs per discharge and an FY 1996 hospital-specific rate; or

• A phase-in blended rate of the updated hospital-specific rate based on FY 1987 costs per discharge and an FY 1996 hospital-specific rate.

For discharges beginning in FY 2004, the additional optional rate would be 100 percent of the FY 1996 hospital-specific rate.

For each cost reporting period, the fiscal intermediary determines which of the payment options will yield the highest rate of payment. Payments are automatically made at the highest rate using the best data available at the time the fiscal intermediary makes the determination. However, it may not be possible for the fiscal intermediary to determine in advance precisely which of the rates will yield the highest payment by year's end. In many instances, it is not possible to forecast the outlier payments, the amount of the DSH adjustment, or the IME adjustment, all of which are applicable only to payments based on the Federal rate. The fiscal intermediary makes a final adjustment at the close of the cost reporting period to determine precisely which of the payment rates would yield the highest payment to the hospital.

If a hospital disagrees with the fiscal intermediary's determination regarding the final amount of program payment to which it is entitled, it has the right to appeal the fiscal intermediary's decision in accordance with the procedures set forth in Subpart R of Part 405, which concern provider payment determinations and appeals.

In calculating a hospital-specific rate for an SCH based on its FY 1996 cost reporting period, we will, to the extent possible, use the same methodology that we used to calculate the hospital-specific rate based on either the FY 1982 or FY 1987 cost reporting period. That methodology is set forth in §§ 412.71, 412.72, 412.73, 412.75 and 412.77.

• If a hospital has a cost reporting period ending in FY 1982, it will be paid a hospital-specific rate based on its FY 1982 costs; or a hospital-specific rate based on its FY 1987 costs; or a hospital-specific rate based on its FY 1996 costs (which, until FY 2004, would be a blend of the greater of the FY 1982 or FY 1987 costs and the FY 1996 costs); or it will be paid based on the Federal rate.

• If a hospital has no cost reporting period ending in FY 1982, it will be paid a hospital-specific rate based on its FY 1987 costs; or a hospital-specific rate based on its FY 1996 costs (which, until FY 2004, would be a blend of its FY 1987 costs and FY 1996 costs); or it will be paid based on the Federal rate.

• If a hospital has no cost reporting period ending in either FY 1982 or FY 1987, it will be paid based on its FY 1996 costs; or it will be paid based on the Federal rate.

• If a hospital has no cost reporting period ending in FY 1982, FY 1987, or FY 1996, it cannot be paid based on a hospital-specific rate; it will be paid based on the Federal rate.

• If a hospital was operating during any or all of FY 1982, FY 1987, or FY 1996, but, for some reason, the cost report records are no longer available, the hospital will be treated as if it had no cost report for the applicable period. Section 1886(b)(3)(C) of the Act specifies the available periods that may be used.

For each SCH, the fiscal intermediary will calculate a hospital-specific rate based on the hospital's FY 1982, FY 1987, or FY 1996 cost report as follows:

• Determine the hospital's total allowable Medicare inpatient operating cost, as stated on the cost report.

• Divide the total Medicare operating cost by the number of Medicare discharges (without adjusting for transfers) in the cost reporting period to determine the base period cost per case.

• In order to take into consideration the hospital's individual case-mix, the base year cost per case is divided by the hospital's case-mix index applicable to the cost reporting period. This step is necessary to adjust the hospital's base period cost for case mix. This is done to remove the effects of case mix from the base period costs per case. Payments using these base period costs are then adjusted to reflect the actual case mix during the payment year. A hospital's case mix is computed based on its Medicare patient discharges subject to DRG-based payment.

The fiscal intermediary will inform each SCH of its hospital-specific rate based on its applicable cost reporting period within 180 days after the start of its cost reporting period.

(The provisions of section 213 of Public Law 106–554 relating to the extension to all SCHs the option to rebase using their FY 1996 operating costs, for cost reporting periods beginning on or after October 1, 2000, were addressed in the June 13, 2001 interim final rule with comment period, and are finalized in this final rule.)

An SCH is also eligible for a payment adjustment if, for reasons beyond its control, it experiences a decline in volume of greater than 5 percent compared to its preceding cost reporting period. This adjustment is also available to hospitals that could qualify as SCHs but choose not to be paid as SCHs; that is, hospitals that qualify and successfully apply to be designated as SCHs but continue to receive payments based on the Federal rate. In addition, section 6003(c)(1) of Public Law 101–239 deleted the sunset date on the 5-percent volume decline adjustment, thus allowing SCHs to receive the adjustment indefinitely. The sunset provision was included under section 1886(d)(5)(C)(ii) of the Act. (Section 6003(c)(1) of Public Law 101–239 amended that provision and

redesignated it as section 1886(d)(5)(D) of the Act.)

In the September 1, 1983, issue of the **Federal Register** (48 FR 39781), we stated that any hospital designated as an SCH would retain that status until it experienced a change in circumstances. Section 6003(e)(3) of Public Law 101–239 specifically stated that any hospital classified as an SCH as of the date of enactment of Public Law 101–239 (December 19, 1989), will retain its SCH status even if the hospital did not meet the criteria established under section 6003(e)(1) of that law. These hospitals are the ''grandfathered'' SCH hospitals. Therefore, we have continued to allow hospitals designated as SCHs prior to December 19, 1989, to be ''grandfathered'' under current criteria.

In the June 4, 1991 **Federal Register**, we stated that a hospital's special status as an SCH would not be retained in light of the hospital's geographic reclassification for purposes of the standardized amount. In the event the hospital's reclassification ceases, it must reapply for special status and must meet all of the applicable qualifying criteria in effect at the time it seeks requalification (56 FR 25482). However, in the event a ''grandfathered'' SCH was successfully reclassified, it would be reinstated as an SCH if its reclassification ceased.

Section 401(a) of Public Law 106–113 established that any subsection (d) hospital (section 1886(d) of the Act) located in an urban area may be redesignated as being located in a rural area if the hospital meets one of several criteria established by the legislation. One of these criteria is that the hospital could qualify as an SCH if the hospital were located in a rural area. Under this provision, an urban hospital that may have been ''grandfathered'' as an SCH could now qualify and receive payment as an SCH if it met the criteria of a rural SCH instead of as an urban SCH. Given this extension of SCH eligibility, we no longer believe it is necessary to extend special protection to ''grandfathered'' SCHs that successfully apply for geographic reclassification through the MGCRB for the standardized amount after their MGCRB reclassification ends. Therefore, a hospital that loses its SCH status through a change in circumstances, such as reclassification through the MGCRB for the standardized amount, will not be reinstated as a SCH unless it can meet all of the SCH qualifying criteria in effect at the time it seeks requalification. This circumstance falls under the provisions of §§ 412.92 (b)(3) and (b)(5), which state that an approved classification as an SCH remains in effect without need for reapproval unless there is a change in the circumstances under which the classification was approved. We believe that a successful reclassification by the MGCRB fits the definition of a change in circumstances.

Because some hospitals may not have understood the effect reclassification would have on their special status, in the May 4 proposed rule we permitted affected hospitals, under existing § 412.273(a), the option to withdraw their applications for reclassification for FY 2002, even if the MGCRB had issued a decision, by submitting a withdrawal request to the MGCRB within 45 days of publication of this proposed rule. Finally, just as a competing hospital that closes leaves an opportunity for an existing hospital to qualify as an SCH, a new hospital that opens in an area with an existing hospital designated as an SCH endangers the SCH status of the existing hospital.

As of October 1, 1997, no designations of hospitals as EACHs can be made. The EACHs designated by CMS before October 1, 1997, will continue to be paid as SCHs for as long as they comply with the terms, conditions, and limitations under which they were designated as EACHs.

Under § 412.92(b)(2), we define the effective dates for several situations in which a hospital gains or gives up SCH status. First, SCH status and the associated payment adjustment is effective 30 days after CMS's written notification to the SCH. Thus, 30 days after the issuance of CMS's notice of approval, the hospital is considered to be an SCH and the payment adjustment is applied to discharges occurring on or after that date.

Second, § 412.92(b)(4)(ii) defines the effective date when a hospital chooses to give up its SCH status. Our policy has always been that an SCH can elect to give up its SCH status at any time by submitting a written request to the appropriate CMS regional office through its fiscal intermediary. The change to fully national rates becomes effective no later than 30 days after the hospital submits its request. We believe that the ''no later than 30 days'' policy for the effective date for cancelling SCH status is in keeping with the prospective nature of the prospective payment system. In addition, the 30-day timeframe to give up SCH status provides the fiscal intermediaries with enough time to alter their automated payment systems prospectively, thus avoiding expensive and time-consuming reprocessing of claims. The variable timeframe of ''no later than 30 days from the date of the hospital's request'' also permits the regional office, the fiscal intermediary, and the hospital to select a mutually agreeable date, for example, at the end of a month, to facilitate the change in SCH status. We expect that hospitals will anticipate when they wish to give up SCH status and to submit their requests in sufficient time to permit the 30-day period for making the change.

In addition, § 412.92(b)(2)(ii) defines the effective date of SCH status in the situation where a final and nonappealable administrative or judicial decision reverses CMS's denial of SCH status to a hospital. In this situation, if the hospital's application was submitted on or after October 1, 1983, the effective date will be 30 days after the date of CMS's original written notification of denial.

Under § 412.92(b)(2)(iii), we define retroactive approval of SCH status. If a hospital is granted retroactive approval of SCH status by a final and nonappealable court order or an administrative decision under subpart R of part 405 of the regulations, and it wishes its SCH status terminated prior to the current date (that is, it wishes to be paid as an SCH for a time-limited period, all of which is in the past), it must submit written notice to the CMS regional office through its fiscal intermediary within 90 days of the court order or the administrative decision. This written notice must clearly state that, although SCH status was granted retroactively by the court order or by the administrative decision, the hospital wants this status terminated as of a specific date. If written notice is not received within 90 days of the court order or the administrative decision, SCH status will continue. Written requests to terminate SCH status that are received subsequent to the 90-day period will be effective no later than 30 days after the request is submitted, as discussed above.

Under § 412.92(c)(1), we define mileage. We believe that mileage should continue to be measured by the shortest route over improved roads maintained by any local, State, or Federal government entity for public use. We consider improved roads to include the paved surface up to the front entrance of the hospital because this portion of the distance is utilized by the public to access the hospital. This definition provides consistency with the interpretation of the MGCRB when considering hospital reclassification applications. The MGCRB measures the distance between the hospital and the county line of the area to which it seeks reclassification beginning with the paved area outside the front entrance of

the hospital. This provides a consistent, national definition that is easily recognizable for each hospital. Finally, rounding of mileage is not permissible. This is also consistent with the MGCRB definition of mileage (56 FR 25483). In this final rule, we are revising the definition of ''miles'' under § 412.92(c)(1) to state that an improved road includes the paved surface up to the front entrance of the hospital.

Under § 412.92(c)(2), we define ''like'' hospital. We consider like hospitals to be those hospitals furnishing short-term acute care. That is, a hospital may not qualify for an SCH classification on the grounds that neighboring hospitals offer specialty services, thereby seeking to exclude close-by competitors as like hospitals, in order to meet the mileage criteria by measuring to a like hospital that is located further away. For example, we believe that competing hospitals within a given area may each have their own specialty services, while all the facilities continue to be considered short-term acute care hospitals. We note that under § 412.92(a)(1)(ii), a hospital with fewer than 50 beds may qualify for SCH status under a special provision if patients that it would normally serve are seeking care elsewhere due to the unavailability of specialty services. This means that, if a hospital can prove that the patients from its service area are seeking specialty services elsewhere (such as, among others, heart surgery, transplants, and burn care), rather than routine care, and, because of that fact, that it otherwise would have met the criteria of section § 412.92(a)(1)(i), it can qualify as an SCH.

We note that § 412.92(b)(1)(iii)(A) retains an outdated reference to ''hospitals located within a 50 mile radius of the hospital.'' With the issuance of the September 1, 1989 **Federal Register** (54 FR 36481, 36482), the 50 mile radius was determined to be unreasonable and all references should have been changed to 35 miles in accordance with § 412.92(a)(1)(i). In this final rule. we are revising the reference to ''a 50 mile radius'' in § 412.92(b)(1)(iii)(A) to read ''a 35 mile radius''.

We note that the travel time and weather conditions criteria set forth in § 412.92(a)(3) were discussed in detail in the September 4, 1990 **Federal Register** (55 FR 36050 through 36055 and 36162 through 36163).

Under § 412.92(a)(1)(i) and (b)(1)(ii), we define the market area analysis criteria used to determine SCH status. In the May 4, 2001 proposed rule, we discussed several points concerning these requests for SCH status that we proposed to clarify.

First, a hospital seeking an SCH designation based on these criteria must make its initial request to the fiscal intermediary with all the appropriate documents as will be discussed below (§ 412.92(b)(1)(i)). The fiscal intermediary will make a recommendation on the request, based on receipt of all the appropriate documentation and its own investigation and analysis, and that recommendation will be forwarded to the CMS regional office for another level of review and final approval or disapproval. The fiscal intermediary would forward its recommendation to the CMS regional office located in the hospital's area as opposed to the fiscal intermediary's area, if there is a difference in these areas. As discussed above, an approval of the request for SCH status will be effective 30 days after CMS issues the approval letter. If a determination on the request requires the use of data that are available at CMS central office only, upon receipt of the fiscal intermediary's recommendation, the CMS regional office will forward the request and the fiscal intermediary's recommendation to the appropriate contact at CMS central office where the determination will be made.

Second, a hospital must provide patient origin data (the number of patients from each zip code from which the hospital draws inpatients) for all inpatient discharges to document the boundaries of its service area (§ 412.92(b)(1)(ii)(A)). Or, the hospital can request that CMS develop patient origin data to define its service area based on the number of patients from each zip code from which the hospital draws Medicare Part A inpatients (§ 412.92(b)(1)(iii)). Then, the lowest number of zip codes in descending percentage order of Medicare inpatients that meets the 75-percent threshold will be used to represent the hospital's service area. We note that hospitals cannot substitute zip codes elsewhere on the list in order to manipulate the service area. (See *Howard Young Medical Center, Inc.* v. *Shalala*, 207 F.3d 437 (7th Cir. 2000).)

Third, the hospital must provide patient origin data from all other hospitals located within a 35-mile radius of it or, if larger, within its service area, to document that no more than 25 percent of either all of the population or the Medicare beneficiaries residing in the hospital's service area and hospitalized for inpatient care were admitted to other like hospitals for care (§ 412.92(b)(1)(ii)(B)). Again, CMS central office can develop patient origin data for other hospitals within the requesting hospital's service area if the hospital is requesting SCH status based on an examination of Medicare Part A inpatient utilization. In either case, the requesting hospital is required to submit a comprehensive list of hospitals located within a 35-mile radius or, if larger, within its service area. This list will be checked by both the fiscal intermediary and CMS. Again, a requesting hospital cannot argue that a competing hospital should be excluded from the service area based on the existence of specialty services at that hospital if both hospitals are short-term acute care facilities. Distances between all reported hospitals will be checked by both the fiscal intermediary and CMS, through electronic geographic mapping services (such as Yahoo or Mapquest) or by physically driving the distance involved.

In addition, data will be analyzed based on the year for which the hospital requests SCH status. Subsequent hospital mergers or terminations will not be taken into consideration in processing the request. For example, if a hospital requests SCH status using data for FY 1999, and that data show that there is a competing hospital in existence that subsequently closed its doors in FY 2000, the data will be analyzed with the terminated hospital in existence, unless the hospital seeking SCH status applies using later data, such as FY 2001. This principle is consistent with how we analyze wage index data. If a terminated hospital has a viable cost report for the year of wage data that is being analyzed to produce the wage index, its data are included as part of the computation.

We received the following comments on our May 4, 2001 proposed rule and the June 13, 2001 interim final rule with comment period:

*Comment:* Several commenters were concerned with the following issues related to the qualifying criteria for sole community hospitals: (1) Utilizing TAC worksheets or other data sources in order to develop a base year alternative for a new SCH; (2) determining a service area; (3) recognition of hospital mergers and terminations that influence a hospital seeking SCH status; (4) including competing hospitals within a 35-mile radius of the requesting hospital as opposed to a 35-road-mile distance; (5) obtaining patient origin data from competing hospitals, (6) timeliness of SCH approvals; (7) SCH status for hospitals with fewer than 50 beds; (8) CAHs as like hospitals; (9) the effect of wage index reclassifications on a hospital's SCH status; and (10) the use of affidavits and other certifications in

verifying time and distance when applying for SCH status.

*Response:* We would like to reiterate that in the proposed rule we were restating historical and current policy and criteria for SCHs. We were not proposing new SCH policies or criteria, or revisions to existing policies or criteria. Rather, we were striving to publish criteria that has been developed over the past several years in one location for the reader's benefit.

First, we appreciate the input concerning a hospital's access to alternative data when a cost report from a prior year may not be readily available. We will take this comment into consideration in working with the fiscal intermediaries in the future to adjust a SCH's payments.

Second, we believe that, using discharge data available on the MedPAR file, we can accurately determine a hospital's service area based on the zip codes that contain the highest number of discharges for that facility and rank those zip codes accordingly. Several commenters suggested that we use patient destination data that are available in some States and, also, that we not be concerned if these data were not available based on a hospital's cost reporting period. As in other aspects of the Medicare program, we must rely on data that are consistent, verifiable by the fiscal intermediaries, and nationally available so that no one hospital or group of hospitals receives a distinct advantage by using an alternative source of data that is not widely available. Therefore, we believe that it is appropriate to determine the hospital's service area based on Medicare discharges.

Third, if a hospital chooses to have a merger recognized in its request for SCH status, or, likewise, a hospital termination, then it is free to wait until its cost report data reflects these changes. Then, CMS will consider the data in light of these facts.

Fourth, we believe it is reasonable to examine a hospital's competitors within a 35-mile radius. Most competing hospitals will not be at the outer limit of the 35-mile radius, and, if these hospitals are not truly competitors, the discharge data will bear out that fact. Also, we examine a hospital's service area based on discharges within zip code areas, and, often, this will exceed a 35-mile radius. Therefore, we believe the 35-mile radius is reasonable.

Fifth, we realize that obtaining patient origin data from competing hospitals may be a difficult proposition, which is why CMS offers to provide this information for the requesting hospital in § 412.92(b)(1)(iii)(A). CMS' data are based on Medicare discharges.

Sixth, approvals of SCH status are effective prospectively. There are several ways in which a hospital may qualify as a SCH, and fiscal intermediaries are required to collect and examine detailed documentation which sometimes requires the assistance of our regional or central office staff. We appreciate the fact that hospitals are concerned that their applications be approved in a timely manner, and we will make every effort to work diligently with our contractors as well as our regional offices to achieve that goal.

Seventh, a commenter suggested that we should be more specific when defining the criteria under which a hospital with fewer than 50 beds could qualify as an SCH at § 412.92(a)(ii). We will take this into consideration as we develop further criteria in the future. In the meantime, we will continue to work closely with our fiscal intermediaries in approving a hospital's SCH status under this provision.

Eighth, we do not consider CAHs like hospitals to be SCHs. CAHs are generally smaller with a very limited length of stay, while SCHs operate as full-service acute-care hospitals.

Ninth, a hospital's status as an SCH is not affected by a wage index reclassification approved by the MGCRB. A hospital's SCH status is affected by an approval for a standardized amount reclassification only, as a reclassification for purposes of a hospital's base payment rate changes its status for all inpatient hospital prospective payment purposes except the wage index.

Finally, hospitals are encouraged to provide as much documentation as possible to assist the fiscal intermediary and CMS in evaluating requests for SCH status. The more complete the documentation, the quicker a decision can be rendered. If a hospital can provide affidavits or other verification of mileage, distances, competing hospital locations, etc., then it is encouraged to do so.

*B. Rural Referral Centers (§ 412.96)*

Under the authority of section 1886(d)(5)(C)(i) of the Act, the regulations at § 412.96 set forth the criteria a hospital must meet in order to receive special treatment under the prospective payment system as a rural referral center. For discharges occurring before October 1, 1994, rural referral centers received the benefit of payment based on the other urban amount rather than the rural standardized amount. Although the other urban and rural standardized amounts were the same for discharges beginning with that date, rural referral centers would continue to receive special treatment under both the disproportionate share hospital (DSH) payment adjustment and the criteria for geographic reclassification.

Section 401 of Public Law 106–113 amended section 1886(d)(8) of the Act by adding subparagraph (E), which creates a mechanism, separate and apart from the MGCRB, permitting an urban hospital to apply to the Secretary to be treated as being located in the rural area of the State in which the hospital is located. The statute directs the Secretary to treat a qualifying hospital as being located in the rural area for purposes of provisions under section 1886(d) of the Act. Congress clearly intended hospitals that become rural under section 1886(d)(8)(E) of the Act to receive some benefit as a result. In addition, one of the criteria under section 1886(d)(8)(E) of the Act is that the hospital would qualify as an SCH or a rural referral center if it were located in a rural area. An SCH would be eligible to be paid on the basis of the higher of its hospital-specific rate or the Federal rate. On the other hand, the only benefit under section 1886(d) of the Act for an urban hospital to become a rural referral center would be waiver of the proximity requirements that are otherwise applicable under the MGCRB process, as set forth in § 412.230(a)(3)(i).

In the August 1, 2000 final rule (65 FR 47089), we stated that we believed Congress contemplated that hospitals might seek to be reclassified as rural under section 1886(d)(8)(E) of the Act in order to become rural referral centers so that the hospitals would be exempt from the MGCRB proximity requirement and could be reclassified by the MGCRB to another urban area. Therefore, in that final rule we sought a policy approach that would appropriately address our concern that these urban to rural redesignations not be utilized inappropriately, and that would benefit hospitals seeking to reclassify under the MGCRB process by achieving rural referral center status. (We became aware of several specific hospitals that were rural referral centers for FY 1991, but subsequently lost their status when the county in which they were located became urban, and had expressed their wish to be redesignated as a rural referral center in order to be eligible to reclassify.) Accordingly, in light of section 1886(d)(8)(E) of the Act and the language in the accompanying Conference Report, effective as of October 1, 2000, hospitals located in what is now an urban area, if they were ever a rural referral center, were reinstated to rural referral center status.

In addition, as discussed in 62 FR 45999 and 63 FR 26317, under section 4202 of Public Law 105–33, a hospital that was classified as a rural referral center for FY 1991 is to be classified as a rural referral center for FY 1998 and later years so long as that hospital continued to be located in a rural area and did not voluntarily terminate its rural referral center status. Otherwise, a hospital seeking rural referral center status must satisfy applicable criteria. One of the criteria under which a hospital may qualify as a rural referral center is to have 275 or more beds available for use. A rural hospital that does not meet the bed size requirement can qualify as a rural referral center if the hospital meets two mandatory prerequisites (specifying a minimum case-mix index and a minimum number of discharges) and at least one of three optional criteria (relating to specialty composition of medical staff, source of inpatients, or referral volume). With respect to the two mandatory prerequisites, a hospital may be classified as a rural referral center if its—

- Case-mix index is at least equal to the lower of the median case-mix index for urban hospitals in its census region, excluding hospitals with approved teaching programs, or the median case-mix index for all urban hospitals nationally; and
- Number of discharges is at least 5,000 per year, or if fewer, the median number of discharges for urban hospitals in the census region in which the hospital is located. (The number of discharges criterion for an osteopathic hospital is at least 3,000 discharges per year.)

1. Case-Mix Index

Section 412.96(c)(1) provides that CMS will establish updated national and regional case-mix index values in each year's annual notice of prospective payment rates for purposes of determining rural referral center status. The methodology we use to determine the national and regional case-mix index values is set forth in regulations at § 412.96(c)(1)(ii). The proposed national case-mix index value for FY 2002 in the May 4 proposed rule included all urban hospitals nationwide, and the proposed regional values for FY 2002 were the median values of urban hospitals within each census region, excluding those with approved teaching programs (that is, those hospitals receiving indirect medical education payments as provided in § 412.105). Those values were based on discharges occurring during FY 2000 (October 1, 1999 through September 30, 2000) and included bills posted to CMS's records through December 2000. (The proposed rule language erroneously cited the period as FY 1999 (October 1, 1998 through September 30, 1999.)

We proposed that, in addition to meeting other criteria, hospitals with fewer than 275 beds, if they are to qualify for initial rural referral center status for cost reporting periods beginning on or after October 1, 2001, must have a case-mix index value for FY 2000 that is at least—

- 1.3286; or
- The median case-mix index value for urban hospitals (excluding hospitals with approved teaching programs as identified in § 412.105) calculated by CMS for the census region in which the hospital is located. (See the table set forth in the May 4, 2001 proposed rule at 66 FR 22687.)Based on the latest data available (FY 2000 bills received through March 31, 2001), in addition to meeting other criteria, hospitals with fewer than 275 beds, if they are to qualify for initial rural referral center status for cost reporting periods beginning on or after October 1, 2001, must have a case-mix index value for FY 2000 that is at least—
- 1.3289; or
- The median case-mix index value for urban hospitals (excluding hospitals with approved teaching programs as identified in § 412.105) calculated by CMS for the census region in which the hospital is located. The final median case-mix values by region are set forth in the following table:

| Region | Case-Mix Index Value |
|---|---|
| 1. New England (CT, ME, MA, NH, RI, VT) | 1.2381 |
| 2. Middle Atlantic (PA, NJ, NY) | 1.2319 |
| 3. South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV) | 1.3055 |
| 4. East North Central (IL, IN, MI, OH, WI) | 1.2588 |
| 5. East South Central (AL, KY, MS, TN) | 1.2530 |
| 6. West North Central (IA, KS, MN, MO, NE, ND, SD) | 1.1690 |
| 7. West South Central (AR, LA, OK, TX) | 1.2443 |
| 8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY) | 1.3275 |
| 9. Pacific (AK, CA, HI, OR, WA) | 1.2991 |

Hospitals seeking to qualify as rural referral centers or those wishing to know how their case-mix index value compares to the criteria should obtain hospital-specific case-mix values from their fiscal intermediaries. Data are available on the Provider Statistical and Reimbursement (PS&R) System. In keeping with our policy on discharges, these case-mix index values are computed based on all Medicare patient discharges subject to DRG-based payment.

2. Discharges

Section 412.96(c)(2)(i) provides that CMS will set forth the national and regional numbers of discharges in each year's annual notice of prospective payment rates for purposes of determining rural referral center status. As specified in section 1886(d)(5)(C)(ii) of the Act, the national standard is set at 5,000 discharges. However, in the May 4 proposed rule, we proposed to update the regional standards based on discharges for urban hospitals' cost reporting periods that began during FY 2000 (that is, October 1, 1999 through September 30, 2000). (The proposed rule language erroneously cited the period as FY 1999 (October 1, 1998 through September 30, 1999.) That is the latest year for which we have complete discharge data available.

Therefore, we proposed that, in addition to meeting other criteria, a hospital, if it is to qualify for initial rural referral center status for cost reporting periods beginning on or after October 1, 2001, must have as the number of discharges for its cost reporting period that began during FY 2000 a figure that is at least—

- 5,000; or
- The median number of discharges for urban hospitals in the census region in which the hospital is located. (See the table set forth in the May 4, 2001 proposed rule at 66 FR 22687.)

Based on the latest discharge data available for FY 2000, the final median number of discharges for urban hospitals by census region areas are as follows:

| Region | Number of Discharges |
|---|---|
| 1. New England (CT, ME, MA, NH, RI, VT) | 7,064 |
| 2. Middle Atlantic (PA, NJ, NY) | 8,488 |
| 3. South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA,WV) | 8,562 |
| 4. East North Central (IL, IN, MI, OH, WI) | 7,616 |
| 5. East South Central (AL, KY, MS, TN) | 6,276 |
| 6. West North Central (IA, KS, MN, MO, NE, ND, SD) | 5,210 |
| 7. West South Central (AR, LA, OK, TX) | 6,196 |
| 8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY) | 8,878 |
| 9. Pacific (AK, CA, HI, OR, WA) | 7,106 |

We reiterate that an osteopathic hospital, if it is to qualify for rural referral center status for cost reporting periods beginning on or after October 1, 2001, must have at least 3,000 discharges for its cost reporting period that began during FY 2000.

We did not receive any comments on the criteria for rural referral centers.

*C. Indirect Medical Education (IME) Adjustment (§ 412.105)*

1. IME Adjustment Factor Formula Multiplier (Section 111 of Public Law 106–113 and section 302 of Public Law 106–554 and § 412.105(d)(3)).

Section 1886(d)(5)(B) of the Act provides that prospective payment hospitals that have residents in an approved graduate medical education (GME) program receive an additional payment to reflect the higher indirect operating costs associated with GME. The regulations regarding the calculation of this additional payment, known as the indirect medical education (IME) adjustment, are located at § 412.105. The additional payment is based in part on the applicable IME adjustment factor. The IME adjustment factor is calculated using a hospital's ratio of residents to beds, which is represented as r, and a multiplier, which is represented as c, in the following equation: $c \times [(1 + r)^{.405} - 1]$. The formula is traditionally described in terms of a certain percentage increase in payment for every 10-percent increase in the resident-to-bed ratio.

Section 302 of Public Law 106–554 amended section 1886(d)(5)(B) of the Act to modify the transition for the IME formula multiplier, or c, that was first established by Public Law 105–33 and revised by Public Law 106–113.

As discussed in the August 1, 2000 final rule and the June 13, 2001 interim final rule with comment period, section 111(a) of Public Law 106–113 revised the formula multiplier for discharges occurring during FY 2001 (established under Public Law 105–33 at 1.6) to 1.54. However, section 302(b) of Public Law 106–554 provides a special payment rule which states that, for discharges occurring on or after April 1, 2001 and before October 1, 2001, IME payments are to be made as if 'c' equaled 1.66, rather than 1.54. The multiplier of 1.54 for the first 6 months of FY 2001 represents a 6.25 percent increase in the level of the IME adjustment for every 10 percent increase in the resident-to-bed ratio, and the multiplier for the second 6 months of FY 2001 represents a 6.75 percent increase in the level of the IME adjustment for every 10 percent increase in the resident-to-bed ratio. This results in an aggregate 6.5 percent increase for every 10 percent increase in the resident-to-bed ratio for FY 2001. Section 547(a)(2) of Public Law 106–554 provides further clarification that these payment increases will not apply to discharges occurring after FY 2001 and will not be taken into account in calculating the payment amounts applicable for discharges occurring after FY 2001. In the June 13 interim final rule, we revised § 412.105(d)(3)(v) to reflect the additional payment provided for discharges occurring during FY 2001 under section 302(b) of Public Law 106–554.

As discussed in the May 4, 2001 proposed rule, section 302(a) of Public Law 106–554 provides that, for discharges occurring during FY 2002, the formula multiplier is 1.6. For discharges occurring during FY 2003 and thereafter, the formula multiplier is 1.35. As explained above, section 302(b) of Public Law 106–554 provides for a special payment rule which states that, for discharges occurring on or after April 1, 2001 and before October 1, 2001, IME payments are to be made as if ''c'' equaled 1.66 rather than 1.54. The multiplier of 1.6 for FY 2002 represents a 6.5 percent increase for every 10 percent increase in the resident-to-bed ratio. The multiplier for FY 2003 and thereafter (1.35) represents a 5.5-percent increase for every 10-percent increase in the resident-to-bed ratio. In the May 4 proposed rule, we proposed to revise § 412.105(d)(3)(vi) to reflect the change in the formula multiplier for FY 2002 to 1.6 as made by section 302(a) of Public Law 106–554 for discharges occurring during FY 2002. We also proposed to add § 412.105(d)(3)(vii) to incorporate the formula multiplier of 1.35 for discharges occurring on or after October 1, 2002.

We did not receive any comments on the IME formula provisions of the June 13 interim final rule with comment period or the proposed amendments under the May 4 proposed rule. Therefore, we are adopting both changes to § 412.105(d)(3) as final without change.

2. Resident-to-Bed Ratio Cap (§ 412.105(a)(1))

In the May 4, 2001 proposed rule, we indicated that it had come to our attention that there is some misunderstanding about § 412.105(a)(1) regarding the determination of the resident-to-bed ratio that is used in calculating the IME adjustment. Section 4621(b)(1) of Public Law 105–33 amended section 1886(d)(5)(B) of the Act by adding a new clause (vi) to provide that, effective for cost reporting periods beginning on or after October 1, 1997, the resident-to-bed ratio may not exceed the ratio calculated during the prior cost reporting period (after accounting for the cap on the hospital's number of full-time equivalent (FTE) residents). We implemented this policy in the August 29, 1997 final rule with comment period (62 FR 46003) and the May 12, 1998 final rule (63 FR 26323) under regulations at § 412.105(a)(1). Existing § 412.105(a)(1) specifies that ''[e]xcept for the special circumstances for affiliated groups and new programs described in paragraphs (f)(1)(vi) and (f)(1)(vii) of this section, for a hospital's cost reporting periods beginning on or

after October 1, 1997, this ratio may not exceed the ratio for the hospital's most recent prior cost reporting period.'' In the May 4 proposed rule, we proposed to clarify § 412.105(a)(1) to add a provision that this ratio may not exceed the ratio for the hospital's most recent prior cost reporting period *after accounting for the cap on the number of FTE residents.*

In general, the resident-to-bed ratio from the prior cost reporting period, which is to be used as the cap on the resident-to-bed ratio for the current payment cost reporting period, should only include an FTE count subject to the FTE cap on the number of allopathic and osteopathic residents, but is *not* subject to the rolling average. (An explanation of rolling average appears in section IV.H.3. of this preamble.)

The following illustrates the steps for determining the resident-to-bed ratio for the current payment year cost reporting period and the cap on the resident-to-bed ratio:

*Current payment year cost reporting period resident-to-bed ratio:*

*Step 1.* Determine the hospital's number of FTE residents in the current payment year cost reporting period.

*Step 2.* Compare the number of allopathic and osteopathic FTEs from step 1 to the hospital's FTE cap (§ 412.105(f)(1)(iv)). If the number of allopathic and osteopathic FTEs from step 1 exceeds the FTE cap, replace it with the number of FTEs in the FTE cap. Add any dental and podiatry FTEs from step 1 to the capped allopathic and osteopathic FTE count.

*Step 3.* Determine the 3-year rolling average of the FTE residents using the FTEs from the current payment year cost reporting period and the prior two cost reporting periods (subject to the FTE cap in each cost reporting period). (Include podiatry and dental residents, and exclude residents in new programs in accordance with § 412.105(f)(1)(iv) and revised (f)(1)(v). Residents in new programs are added to the quotient of the rolling average.)

*Step 4.* Determine the hospital's number of beds (see § 412.105(b)) in the current payment year cost reporting period.

*Step 5.* Determine the ratio of the number of FTEs from step 3 to the number of beds from step 4. The lower of this resident-to-bed ratio or the resident-to-bed ratio cap (calculated below) from the immediately preceding cost reporting period is used to calculate the hospital's IME adjustment factor for the current payment year cost reporting period.

*Resident-to-bed ratio cap:*

*Step 1.* Determine the hospital's number of FTE residents in its cost reporting period that immediately precedes the current payment year cost reporting period.

*Step 2.* Compare the number of allopathic and osteopathic FTEs from step 1 to the hospital's FTE cap. If the number of allopathic and osteopathic FTEs from step 1 exceeds the FTE cap, replace it with the number of FTEs in the FTE cap. Add any dental and podiatry FTEs from step 1 to the capped allopathic and osteopathic FTE count. (If there is an increase in the number of FTEs in the current payment year cost reporting period due to a new program or an affiliation agreement, these FTEs are added to FTEs in the preceding cost reporting period after applying the FTE cap.)

*Step 3.* Determine the hospital's number of beds (§ 412.105(b)) in its cost reporting period that immediately precedes the current payment year cost reporting period.

*Step 4.* Determine the ratio of the number of FTEs in step 2 to the number of beds in step 3. This ratio is the resident-to-bed ratio cap for the current payment year cost reporting period.

*Step 5.* Compare the resident-to-bed ratio cap in step 4 to the resident-to-bed ratio in the current payment year cost reporting period. The lower of the resident-to-bed ratio from the current payment year cost reporting period or the resident-to-bed ratio cap from the immediately preceding cost reporting period is used to calculate the hospital's IME adjustment factor for the current payment year cost reporting period.

We note that the resident-to-bed ratio cap is a cap on the resident-to-bed ratio calculated for all residents, including allopathic, osteopathic, dental, and podiatry residents (63 FR 26324, May 12, 1998). However, as described in existing § 412.105(a)(1), the resident-to-bed ratio cap may be adjusted to reflect an increase in the current cost reporting period's resident-to-bed ratio due to residents in a new GME program or an affiliation agreement. While an exception does not apply if the resident-to-bed ratio increases because of an increase in the number of podiatry or dentistry residents or because of a change in the number of beds, the ratio could increase after a one-year delay. An increase in the current cost reporting period's ratio (while subject to the FTE cap on the overall number of allopathic and osteopathic residents) thereby establishes a higher cap for the following cost reporting period.

The following is an example of the application of the cap on the resident-to-bed ratio:

*Example—Part 1:*

- Assume Hospital A has 50 FTEs in its cost reporting period ending September 30, 1996, thereby establishing an IME FTE resident cap of 50 FTEs.
- In its cost reporting period of October 1, 1996 to September 30, 1997 (the prior year), it has 50 FTEs and 200 beds, so that its resident-to-bed ratio for this period is 50/200 = .25.
- In the (current year) cost reporting period of October 1, 1997 to September 30, 1998 (the first cost reporting period in which the FTE resident cap, the resident-to-bed ratio cap, and the rolling average apply), Hospital A has 50 FTEs and 200 beds.
- Hospital A's FTEs do not exceed its FTE cap, so its current number of FTEs (50) is used to calculate the 2-year rolling average: (50 + 50)/2 = 50.
- The result of the rolling average is used as the numerator of the resident-to-bed ratio. Thus, the resident-to-bed ratio is 50/200 = .25.
- .25 is compared to the resident-to-bed ratio from the prior period of October 1, 1996 to September 30, 1997. Because the FTE resident cap and the rolling average were not yet effective in the period of October 1, 1996 to September 30, 1997, that period s resident-to-bed ratio does not have to be recalculated to account for the FTE resident cap. Accordingly, the resident-to-bed ratio cap for October 1, 1997 to September 30, 1998 is .25.
- Because the resident-to-bed ratio does not exceed the prior year ratio, Hospital A would use the resident-to-bed ratio of .25 to determine the IME adjustment in its cost reporting period of October 1, 1997 to September 30, 1998.

*Example—Part 2:*

- In the (current year) cost reporting period of October 1, 1998 to September 30, 1999, Hospital A adds 1 podiatric and 1 dental resident, so that it has a total of 52 FTEs and 200 beds. Since the FTE resident cap only includes allopathic and osteopathic residents, Hospital A has not exceeded its FTE resident cap with the addition of a podiatric and a dental resident.
- Accordingly, the (now) 3-year rolling average would be (52 + 50 + 50)/3 = 50.67.
- 50.67 is used in the numerator of the current payment year's resident-to-bed ratio, so that the resident-to-bed ratio is 50.67/200 = .253.
- .253 is compared to the resident-to-bed ratio from the prior year's cost reporting period of October 1, 1997 to September 30, 1998 that is recalculated to account for the FTE resident cap. Because Hospital A did not exceed its FTE resident cap of 50 FTEs in this period of October 1, 1997 to September 30, 1998, the recalculated resident-to-bed ratio would be 50/200 = .25.
- Compare the current year resident-to-bed ratio (.253) to the resident-to-bed ratio cap (.25); .253 *does exceed* .25.
- Therefore, the resident-to-bed ratio in the period of October 1, 1998 to September 30, 1999 is capped at .25, which is to be used in calculating Hospital A s IME adjustment for October 1, 1998 to September 30, 1999.

*Example—Part 3:*

- In the cost reporting period of October 1, 1999 to September 30, 2000, Hospital A adds

2 internal medicine residents so that it has a total of 54 FTEs and 200 beds. While podiatric and dental residents are not included in the FTE resident cap, internal medicine residents are included. Hospital A has exceeded its IME FTE resident cap of 50 by 2 FTEs. Thus, 2 FTEs are excluded from the FTE count.

- Accordingly, the rolling average would be (52 + 52 + 50)/3 = 51.33.
- 51.33 is used in the numerator of the resident-to-bed ratio, so that the resident-to-bed ratio is 51.33/200 = .257.
- .257 is compared to the resident-to-bed ratio from October 1, 1998 to September 30, 1999 that is recalculated to only account for the FTE resident cap. The recalculated resident-to-bed ratio would be 50 allopathic or osteopathic FTEs plus 1 podiatric and 1 dental resident, which is 52/200 = .26.
- .26 is the resident-to-bed ratio cap for October 1, 1999 to September 30, 2000. .257 *does not exceed* .26.
- Therefore, the resident-to-bed ratio in the period of October 1, 1998 to September 30, 1999 is .257, which is to be used in calculating this period s IME adjustment.

If a hospital starts a new GME program, the adjustment to the resident-to-bed ratio cap applies for the period of years equal to the minimum accredited length for each new program started. (For example, for a new internal medicine program, the period of years equals 3; for a new surgery program, the period of years equals 5.) Within these program years, the number of new FTE residents in the current cost reporting period is added to the FTE resident count used in the numerator of the resident-to-bed ratio from the previous cost reporting period. The lower of the resident-to-bed ratio from the current cost reporting period or the adjusted resident-to-bed ratio from the preceding cost reporting period is used to calculate the hospital's IME adjustment for the current cost reporting period. If a hospital subsequently continues to expand its program, the numerator of the resident-to-bed ratio from the preceding cost reporting period would not be adjusted to reflect these additional residents. However, an increase in the ratio of the current cost reporting period would establish a higher cap for the following cost reporting period.

We also proposed to add a provision that the exception for new programs described in § 412.105(f)(1)(vii) applies for the period of years equal to the minimum accredited length for each new program.

Similarly, if a hospital increases the number of FTE residents in the current cost reporting period because of an affiliation agreement, the number of additional FTEs is added to the FTE resident count used in the numerator of the resident-to-bed ratio from the previous cost reporting period. The lower of the resident-to-bed ratio from the current cost reporting period or the adjusted resident-to-bed ratio from the preceding cost reporting period is used to calculate the hospital's IME adjustment for the current cost reporting period.

*Comment:* Several commenters addressed our clarifications to the regulations at § 412.105(a)(1) regarding the cap on the resident-to-bed ratio. One commenter stated that the explanation in the proposed rule regarding the resident-to-bed ratio was thorough. Another commenter expressed appreciation for the inclusion of examples in the proposed rule's preamble. One commenter noted that, in the proposed rule under step 2 of the example of the calculation of the resident-to-bed ratio cap, we indicate that the lesser of the prior year FTEs or the FTE cap is used in the numerator of the resident-to-bed ratio. The commenter noted that we do not specify that, while the FTE cap only applies to allopathic and osteopathic FTEs, dentistry and podiatry FTEs should be included in the numerator of the resident-to-bed ratio. The commenter asked that we specify that the prior year podiatry and dentistry FTEs must be added to the FTE count used in the resident-to-bed ratio after the FTE cap has been applied.

*Response:* We agree with the commenter concerning the inclusion of dental and podiatry FTEs in step 2, and we have clarified the language in step 2 of the examples of both the current year resident-to-bed ratio and the resident-to-bed ratio cap calculation in the preamble of this final rule. Specifically, we state, ''Compare the number of allopathic and osteopathic FTEs from step 1 to the hospital's FTE cap. If the number of allopathic and osteopathic FTEs from step 1 exceeds the FTE cap, replace it with the FTE cap. Add any dental or podiatry FTEs from step 1 to the capped allopathic and osteopathic FTE count.'' Furthermore, we are revising the proposed changes to the regulations text at § 412.105(a)(1) to state that ''. . . this ratio may not exceed the ratio for the hospital's most recent prior cost reporting period after accounting for the cap on the number of allopathic and osteopathic residents as described in paragraph (f)(1)(iv) of this section, and adding to the capped numerator any dental and podiatric full-time equivalent residents. . . .''

*Comment:* One commenter noted that, in clarifying the regulations at § 412.105(a)(1) regarding the resident-to-bed ratio cap, we added that the exception to the resident-to-bed ratio cap ''. . . for new programs . . . applies for the period of years equal to the minimum accredited length *for that type of program*'' (emphasis added). The commenter asked how we would apply the exception to the resident-to-bed ratio cap in a situation where a hospital has started several new programs with varying minimum accredited lengths.

*Response:* The exception at proposed § 412.105(a)(1) for new programs allows a hospital to add a full complement of residents and complete the initial cycle of a program before residents in the new programs are included in the application of the resident-to-bed ratio cap. In a situation where a hospital has started several new programs under § 412.105(f)(1)(vii), we would apply the exception to the resident-to-bed ratio cap to each new program individually based on each program's minimum accredited length. For example, if a hospital simultaneously starts a new internal medicine program (which has a minimum accredited length of 3 years) and an anesthesiology program (which has a minimum accredited length of 4 years), the FTE residents in the new internal medicine program will be subject to the resident-to-bed ratio cap in the fourth program year of the internal medicine program, while the anesthesiology FTE residents would still be excluded from the resident-to-bed ratio cap in the fourth program year of the anesthesiology programs. However, in subsequent program years, the anesthesiology FTE residents would be subject to the resident-to-bed ratio cap, as well.

The rules regarding the exception from the rolling average calculation for IME are the same for direct GME. The proposed revised regulations at § 412.105(f)(1)(v) and § 413.86(g)(5) in the May 4, 2001 proposed rule state that FTE residents in a new program are excluded from the rolling average calculation for the period of years equal to the minimum accredited length for the type of program. In this final rule, we are revising the regulations regarding the exceptions to the resident-to-bed ratio cap and the rolling average calculation for both IME and direct GME to clarify that these exceptions apply to each new program individually for which the FTE cap may be adjusted based on each program's minimum accredited length (§ 412.105(a)(1), 412.105(f)(1)(v), and 413.86(g)(5)(v)).

*Comment:* One commenter asserted that, in the proposed rule, it is inconsistent to account for both the FTE cap and the rolling average count of residents in the current year resident-to-bed ratio, but account for only the FTE cap in the resident-to-bed ratio cap

(which is the prior year's ratio). The commenter stated that their willingness to support the proposed rule depended on whether the residency program is increasing or decreasing its FTEs every year.

*Response:* Section 1886(d)(5)(B)(v)(I) of the Act, as amended by Public Law 105–33, states that the resident-to-bed ratio ''may not exceed the ratio of the number of interns and residents, *subject to the limit under clause (v),* with respect to the hospital for its most recent cost reporting period to the hospital's available beds . . . during that cost reporting period . . .'' (emphasis added). Clause (v) is the FTE cap requirement; the statute does not specify clause (vi)(II), which is the rolling average requirement, in relation to the resident-to-bed ratio cap. Accordingly, the implementing regulations require that the resident-to-bed ratio cap should only account for the cap on the number of FTEs.

In addition, we note that the commenter is mistaken in indicating that the rules regarding the determination of the resident-to-bed ratio and the resident-to-bed ratio cap are proposed rules. These rules have been in place based on the statute since the effective date of Public Law 105–33. We simply took the opportunity in the proposed rule published on May 4, 2001 to further clarify our existing policy because we realized that there was some confusion surrounding these rules.

*Comment:* One commenter noted that, since under the provisions of § 413.86(g)(6)(i), the FTE cap for new programs is established based on the number of residents in the third year of the first program's existence, it follows that the FTE cap on the residents in the new programs is effective in the fourth program year. The commenter asked if the application of the cap is delayed until the expiration of the minimum accredited length of the new programs.

*Response:* The application of the FTE adjusted caps for new programs under § 413.86(g)(6)(i) and (g)(6)(ii) are not delayed until the expiration of the minimum accredited length of the new programs. Only the application of the resident-to-bed ratio cap for IME and the rolling average for both IME and direct GME are dependent upon the minimum accredited length of each new program. The regulations at § 413.86(g)(6)(i) state that the cap for new programs will be adjusted based on ''the product of the highest number of residents in any program year *during the third year of the first* program's existence for *all* new residency training programs and the number of years in which residents are expected to complete the program based on the minimum accredited length for the type of program'' (*emphasis added*). In general, when a hospital qualifies for a cap adjustment under § 413.86(g)(6)(i), the hospital has three years from the time that a resident first begins training in the first new program to establish its FTE cap. The first day of the fourth program year, the FTE cap on that first program, and any other programs that may have been started within the initial three years of that first program, is permanently established and takes effect.

For example, if a hospital that qualifies for a cap adjustment under § 413.86(g)(6)(i) starts a newly accredited dermatology program on July 1, 2001, and then starts a newly accredited anesthesiology program on July 1, 2002, the cap for both programs, and for the hospital as a whole, will be adjusted as of July 1, 2004, the first day of the fourth program year of dermatology, which is the first program that the hospital started. The hospital's cap will be based on the sum of: (a) The product of the highest number of residents in either PGY1, PGY2, or PGY3 in the third year of the dermatology program and 4 years (the minimum accredited length of dermatology); and (b) the product of the highest number of residents in either PGY1 or PGY2 for the anesthesiology program and 4 years (the minimum accredited length for anesthesiology). Any programs begun after the first program's start date but before the fourth program year of the first program will not have a full 3 years before the hospital's cap is permanently adjusted.

The rules under § 413.86(g)(6)(ii) differ for hospitals that qualify for an FTE cap adjustment for new programs started on or after January 1, 1995 and on or before August 5, 1997. Section 413.86(g)(6)(ii) states that the FTE cap adjustment is ''based on the product of the highest number of residents in any program year *during the third year of the newly established program* and the number of years in which residents are expected to complete the program based on the minimum accredited length for the type of program'' (emphasis added). In contrast to hospitals that qualify for a cap adjustment under § 413.86(g)(6)(i), where the cap for the hospital takes effect for *all* programs in the fourth program year of the first program that was started by the hospital, hospitals that qualify for an FTE cap adjustment under § 413.86(g)(6)(ii) have a full 3 years to grow *each* new program, as long as those programs all started training residents or received accreditation between January 1, 1995 and on or before August 5, 1997. The adjustment to the cap for each of those new programs would be applied individually, beginning with the *first day of the fourth program year of each new program.* (We note that rural hospitals that qualify for a cap adjustment under § 413.86(g)(6)(iii) may receive an FTE cap adjustment in the same manner as hospitals that qualify for the cap adjustment under § 413.86(g)(6)(ii), except that rural hospitals may receive this adjustment for programs started after August 5, 1997).

For example, assume a hospital that qualifies for a cap adjustment under § 413.86(g)(6)(ii) started a newly accredited internal medicine program on July 1, 1996, and a newly accredited dermatology program on July 1, 1997. The adjustment to the hospital's FTE cap because of the internal medicine program was effective July 1, 1999 (the first day of the fourth program year of internal medicine), and the cap adjustment resulting from the dermatology program was effective July 1, 2000 (the first day of the fourth program year for dermatology). The hospital's ultimate FTE cap is the sum of the FTE cap based on FTEs in the hospital's most recent cost reporting period ending on or before December 31, 1996, and the cap adjustments for the internal medicine and dermatology programs. (We note that since the internal medicine program began in 1996, depending on the hospital's cost reporting period, a portion of those FTEs may have already been included in the hospital's FTE cap. That portion that was included in the FTE cap must be subtracted from the cap adjustment that was calculated for the internal medicine program to avoid any double counting of the FTEs). The hospital's adjusted cap will be based on the sum of: (a) the product of the highest number of internal medicine residents in either PGY1, PGY2, or PGY3 in the third year of the internal medicine program and three (the minimum accredited length of internal medicine); and (b) the product of the highest number of dermatology residents in either PGY1, PGY2, or PGY3 for the dermatology program and four (the minimum accredited length for dermatology).

In summary, we reiterate that the application of the FTE cap adjustments for new programs is *not* delayed until the program year in which the minimum accredited length of each program expires. This would even apply to a new program with a minimum accredited length that exceeds 3 years. The FTE cap adjustment takes effect on the first day of the fourth program year of the first new program that was started

by hospitals qualifying for a cap adjustment under § 413.86(g)(6)(i). For hospitals qualifying for a cap adjustment under § 413.86(g)(6)(ii) and (g)(6)(iii), the cap adjustments take effect on the first day of the fourth program year of each new program. However, the application of the resident-to-bed ratio cap for IME and the rolling average for both IME and direct GME are dependent upon the minimum accredited length of each new program.

*Comment:* With regard to the counting of residents for IME payment purposes in nonhospital sites, one commenter stated that although time spent in nonhospital sites may be included in the IME FTE count effective for discharges occurring on or after October 1, 1997, the application of the 1996 FTE cap effectively disallows the current year's FTEs training in the nonhospital site, because the 1996 FTE cap was based on residents training only in the hospital. The commenter added that only those hospitals that are in a position to elect a Medicare affiliation agreement are able to ''circumvent'' the 1996 FTE limit; those that cannot are ''penalized.'' The commenter further stated that the regulatory intent of allowing nonhospital training time to be counted is not fully met by having only certain hospitals able to affiliate. The commenter recommended that we should allow hospitals to recalculate the 1996 IME FTE cap to include those FTEs training in nonhospital sites, so that hospitals will effectively be able to count residents currently training in nonhospital sites for IME purposes.

*Response:* The commenter is addressing a provision in Public Law 105–33 that was implemented in regulations at § 412.105(f)(1)(ii)(C). We did not propose any substantive changes to this policy; we simply were correcting an oversight in the regulations text for IME. (Comments on regulations implementing this provision were addressed in the May 12, 1998 final rule (63 FR 26323) and the July 31, 1998 final rule (63 FR 40954).)

3. Conforming Changes (§ 412.105(f)(1)(ii)(C) and (f)(1)(v))

In the August 29, 1997 final rule with comment period (62 FR 46003), the May 12, 1998 final rule (63 FR 26323), and the July 31, 1998 final rule (63 FR 40986), to implement the provisions of Public Law 105–33, we set forth certain policies that affected payment for both direct and indirect GME. Some of these policies related to the FTE cap on allopathic and osteopathic residents, the rolling average, and payment for residents training in nonhospital settings. In the May 4 proposed rule, we indicated that when we amended the regulations under § 413.86 for direct GME, we inadvertently did not make certain conforming changes in § 412.105 for IME. We proposed to make the following conforming changes:

- To revise § 412.105(f)(1)(ii)(C) to specify that, effective for discharges occurring on or after October 1, 1997, the time residents spend training in a nonhospital setting in patient care activities under an approved medical residency training program may be counted towards the determination of full-time equivalency if the criteria set forth at § 413.86(f)(3) or § 413.86(f)(4), as applicable, are met.
- To revise § 412.105(f)(1)(v) to specify that residents in new residency programs are not included in the rolling average for a period of years equal to the minimum accredited length for the type of program.

In addition, we proposed to revise § 412.105(f)(1)(ix) to specify, for IME purposes, a temporary adjustment to a hospital's FTE cap to reflect residents added because of another hospital's closure of its medical residency program (to conform to the May 4, 2001 proposed change for GME discussed in section IV.H.5. of this preamble).

We did not receive any comments on these conforming changes and are adopting them as final.

*D. Payments to Disproportionate Share Hospitals (DSH) (Sections 211 and 303 of Public Law 106–554 and § 412.106)*

Effective for discharges beginning on or after May 1, 1986, hospitals that serve a disproportionate number of low-income patients (the DSH patient percentage as defined in section 1886(d)(5)(F) of the Act) receive additional payments through the DSH adjustment. Hospitals that meet the DSH patient percentage criteria are entitled to the DSH payment adjustment.

1. Qualifying Thresholds for DSHs

In the June 13, 2001 interim final rule with comment period, we discussed the provisions of section 1886(d)(5)(F)(v) of the Act, as it existed prior to enactment of Public Law 106–554 and under § 412.106(c) of the existing regulations, which provided that a hospital qualified for DSH if the hospital had a DSH patient percentage equal to:

- At least 15 percent for an urban hospital with 100 or more beds or a rural hospital with 500 or more beds;
- At least 40 percent for an urban hospital with fewer than 100 beds;
- At least 45 percent for a rural hospital with 100 beds or fewer, if it is not also classified as an SCH;
- At least 30 percent for a rural hospital with more than 100 beds and fewer than 500 beds or which is classified as an SCH; or
- The hospital has 100 or more beds, is located in an urban area, and receives more than 30 percent of its net inpatient revenues from State and local government sources for the care of indigent patients not eligible for Medicare or Medicaid.

Section 211(a) of Public Law 106–554 amended section 1886(d)(5)(F)(v) to provide that, beginning with discharges occurring on or after April 1, 2001, the qualifying threshold is reduced to 15 percent for all hospitals. Therefore, in the June 13 interim final rule, we revised § 412.106(c) to reflect the change in DSH qualifying threshold percentages.

*Comment:* Several commenters responded on the subject of the calculation of the DSH payment adjustment. These commenters were concerned about how to apply the threshold changes as of April 1, 2000. They were also concerned about counting days in the calculation when a stay crosses over two cost reporting periods. Finally, these commenters were concerned about counting section 1115 expansion waiver days in the DSH payment adjustment calculation.

*Response:* Section 211(a) of Public Law 106–554 amended section 1886(d)(5)(F) of the Act to change the qualifying thresholds for the DSH payment adjustment to 15 percent for all hospital types, effective with discharges occurring on or after April 1, 2001. This means that the legislation is effective with discharges occurring on or after April 1, 2001, but not before. Therefore, fiscal intermediaries are required to determine whether a hospital meets the thresholds in place either before or after April 1, 2001, by applying the DSH patient percentage in the formula to each separate period. Days are counted based on the date of discharge. In other words, a hospital stay would be counted in the cost reporting year during which the patient was discharged.

Finally, counting section 1115 expansion waiver days in the DSH payment adjustment calculation was discussed in the August 1, 2000 **Federal Register** (65 FR 47086). This policy became effective for discharges occurring on or after January 20, 2000. Therefore, it is possible that a hospital will qualify for DSH payments as of January 20, 2000, whereas it did not qualify before January 20, 2000, and it should be paid accordingly. In other words, a hospital in that situation would receive Medicare DSH payments beginning January 20, 2000.

2. Calculation of the DSH Payment Adjustment

Section 211(b) of Public Law 106–554 further amended section 1886(d)(5)(F) to revise the calculation of the DSH payment adjustment for hospitals affected by the revised thresholds as specified in section 211(a) of the Act. In the June 13 interim final rule with comment period, we discussed these adjustments, which are effective for discharges occurring on or after April 1, 2001, as follows:

• Urban hospitals with fewer than 100 beds and whose DSH patient percentage is equal to or greater than 15 percent and less than 19.3 percent receive the DSH payment adjustment determined using the following formula:

(DSH patient percentage − 15) (.65) + 2.5.

• Urban hospitals with fewer than 100 beds and whose DSH patient percentage is equal to or greater than 19.3 percent receive a flat add-on of 5.25 percent.

• Rural hospitals that are both rural referral centers and SCHs receive the DSH payment adjustment determined using the higher of the SCH adjustment or the rural referral center adjustment.

• Rural hospitals that are SCHs and are *not* rural referral centers and whose DSH patient percentage is equal to or greater than 15 percent and less than 19.3 percent receive the DSH payment adjustment determined using the following formula:

(DSH patient percentage − 15) (.65) + 2.5.

• Rural hospitals that are SCHs and are *not* rural referral centers and whose DSH patient percentage is equal to or greater than 19.3 percent and less than 30 percent receive a flat add-on of 5.25 percent.

• Rural hospitals that are SCHs and are *not* rural referral centers and whose DSH patient percentage is equal to or greater than 30 percent receive 10 percent.

• Rural referral centers whose DSH patient percentage is greater than or equal to 15 percent and less than 19.3 percent receive the DSH payment adjustment determined using the following formula:

(DSH patient percentage − 15) (.65) + 2.5.

• Rural referral centers whose DSH patient percentage is equal to or greater than 19.3 percent but less than 30 percent receive a flat add-on of 5.25 percent.

• Rural referral centers whose DSH patient percentage is equal to or greater than 30 percent receive the DSH payment adjustment determined using the following formula:

(DSH patient percentage—30) (.6) + 5.25.

• Rural hospitals with fewer than 500 beds and whose DSH patient percentage is equal to or greater than 15 percent and less than 19.3 percent receive the DSH payment adjustment using the following formula:

(DSH patient percentage—15) (.65) + 2.5.

• Rural hospitals with fewer than 500 beds and whose DSH patient percentage is equal to or greater than 19.3 percent receive a flat add-on of 5.25 percent.

If we calcqulate DSH patient percentages to the hundredth place (our current practice), these payment formulas result in an anomaly for some DSH patient percentages just below 19.3 percent (but greater than 19.2 percent). That is, as the percentage values approach 19.3, the DSH payment adjustment resulting from the formula exceeds 5.25 percent. This would result in a higher DSH payment adjustment for DSH patient percentages just below 19.3 than for percentages of 19.3 and above. We stated in the June 13 interim final rule that, because we believe it would be contrary to the Congress' intent for hospitals with a DSH patient percentage of less than 19.3 percent to receive a greater payment than those hospitals of the same class that have a DSH patient percentage of 19.3 or greater, we were implementing this provision so that, for DSH patient percentages below 19.3 for affected hospitals, the DSH payment adjustment will not exceed 5.25 percent.

In the June 13 interim final rule with comment period, we revised § 412.106(d) to reflect the changes in the disproportionate share adjustment.

3. Percentage Reduction to the DSH Payment Adjustment

Section 1886(d)(5)(F)(ix) of the Act, as amended by section 112 of Public Law 106–113, specifies a percentage reduction in the payments a hospital would otherwise receive under the DSH payment adjustment formula. Prior to enactment of section 303 of Public Law 106–554, the reduction percentages were as follows: 3 percent for FY 2001, 4 percent for FY 2002, and 0 percent for FY 2003 and each subsequent fiscal year.

Section 303 of Public Law 106–554 revised the amount of the percent reductions to 2 percent for discharges occurring in FY 2001, and to 3 percent for discharges occurring in FY 2002. The reduction continues to be 0 percent for FY 2003 and each subsequent fiscal year. Section 303 of Public Law 106–554 contains a special rule for FY 2001: For discharges occurring on or after October 1, 2000 and before April 1, 2001, the reduction is to be 3 percent, and for discharges occurring on or after April 1, 2001 and before October 1, 2001, the reduction is to be 1 percent. Changes made by section 303 with respect to FY 2001 discharges were implemented in the June 13, 2001 interim final rule with comment period.

We are adopting as final the revisions to § 412.106(e) to reflect the change in the percentages made by section 303 of Public Law 106–554 that were included in the May 4, 2001 proposed rule and in the June 13, 2001 interim final rule with comment period. We also are making a technical change in the heading of paragraph (e).

*E. Medicare-Dependent, Small Rural Hospitals (Section 404 of Public Law 106–113 and section 212 of Public Law 106–554 and 42 CFR 412.90(j) and 412.108)*

Section 6003(f) of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239) added section 1886(d)(5)(G) to the Act and created the category of Medicare-dependent, small rural hospital (MDH) that are eligible for a special payment adjustment under the hospital inpatient prospective payment system. Section 1886(d)(5)(G) of the Act define an MDH as any hospital that meets all of the following criteria:

• The hospital is located in a rural area.

• The hospital has 100 or fewer beds.

• The hospital is not classified as an SCH (as defined at § 412.92).

• In the hospital's cost reporting period that began during FY 1987, not less than 60 percent of its inpatient days or discharges were attributable to inpatients entitled to Medicare Part A benefits. If the cost reporting period is for less than 12 months, the hospital's most recent 12-month or longer cost reporting period before the short period is used.

(For a more detailed discussion, see the April 20, 1990 **Federal Register** (55 FR 15154)).

As provided by the law, MDHs were eligible for a special payment adjustment under the prospective payment system, effective for cost reporting periods beginning on or after April 1, 1990 and ending on or before March 31, 1993. Hospitals classified as MDHs were paid using the same methodology applicable to SCHs, that is, based on whichever of the following rates yielded the greatest aggregate payment for the cost reporting period:

• The national Federal rate applicable to the hospital.

• The updated hospital-specific rate using FY 1982 cost per discharge.

• The updated hospital-specific rate using FY 1987 cost per discharge.

Section 13501(e)(1) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66) extended the MDH provision through FY 1994 and provided that, after the hospital's first three 12-month cost reporting periods beginning on or after April 1, 1990, the additional payment to an MDH whose applicable hospital-specific rate exceeded the Federal rate was limited to 50 percent of the amount by which the hospital-specific rate exceeded the Federal rate.

Section 4204(a)(3) of Public Law 105–33 reinstated the MDH special payment for discharges occurring on or after October 1, 1997 and before October 1, 2001, but did not revise the qualifying criteria for these hospitals or the payment methodology.

Section 404(a) of Public Law 106–113 extended the MDH provision to discharges occurring on or after October 1, 2002 and before October 1, 2006. In the August 1, 2000 interim final rule with comment period, we revised §§ 412.90(j) and 412.108 to reflect the extension of the MDH program through FY 2006.

As specified in the June 13, 2001 interim final rule with comment period, section 212 of Public Law 106–554 provided that, effective with cost reporting periods beginning on or after April 1, 2001, hospitals have the option to base MDH eligibility on two of the three most recently audited cost reporting periods for which the Secretary has a settled cost report, rather than on the cost reporting period that began during FY 1987. According to section 212, the criteria for at least 60 percent Medicare utilization will be met if in at least ''2 of the 3 most recently audited cost reporting periods for which the Secretary has a settled cost report'', at least 60 percent of the hospital's inpatient days or discharges were attributable to individuals receiving Medicare Part A benefits.

Hospitals that qualify under this provision are subject to the other provisions already in place for MDHs, that is, the payment methodology as defined in § 412.108(c) and the volume decrease provision as defined in § 412.108(d).

A hospital must notify its fiscal intermediary to be considered for MDH status under this new provision. Any hospital that believes it meets the criteria to qualify as an MDH, based on at least two of its three most recently settled cost reports, must submit a written request to its intermediary. The hospital's request must be submitted within 180 days from the date of the notice of amount of program reimbursement for the cost reporting period in question. The intermediary will make its determination and notify the hospital within 180 days from the date it receives the hospital's request and all of the required documentation.

In the June 13 interim final rule with comment period, we revised § 412.108(a)(1)(iii) to reflect the additional option provided by section 212 of Public Law 106–554.

We received one comment on the proposed regulation change.

*Comment:* One commenter representing a state hospital association expressed concern regarding the MDH qualifying process outlined in the interim final rule. The commenter questioned the timing of the process, especially that the hospital would be required to apply within 180 days from the date of the notice of program reimbursement and that the fiscal intermediary would have up to 180 days in which to make its decision. The commenter believed that this would not allow hospitals to qualify by the first cost reporting period beginning on or after the April 1, 2001, effective date of the new provision. The commenter also believed that this process would result in a lengthy period of time, perhaps 2–4 years while the cost report settlement and this process plays out. The commenter also believed the determination of whether or not a hospital meets the requirements to become an MDH under this new provision should be handled in manner consistent with that already in place. That is, fiscal intermediaries should automatically determine, using the cost report information they have, whether or not any additional hospitals would now qualify as an MDH under this new criteria, rather than putting the burden on the hospitals to apply for MDH status. The commenter also stated that the fiscal intermediaries require instruction regarding the calculation of the payment rates in order to determine which would most benefit the MDHs. The commenter also believed that the impact analysis understates the number of newly eligible hospitals under the new MDH provision.

*Response:* We disagree with the commenter that the process for approval of new MDHs could take as long as 2 to 4 years. We do agree with this commenter that hospitals' requests for consideration under this provision need not be limited to requests submitted within 180 days of the issuance of a notice of amount of program reimbursement, and we are deleting this requirement from § 412.108(b). This will eliminate any unintended delay in the time when hospitals could request MDH status. Therefore, hospitals are free to request MDH status at any time. We also are revising the time provided for fiscal intermediaries to make their determination, from 180 days to 90 days. We believe this will provide sufficient time for review while being responsive to the commenter's concern that the process not be too lengthy. Similar to the approval period for SCHs as described above, MDH status and the associated payment adjustment are effective 30 days after written notification to the MDH.

We believe it is most appropriate, and consistent with procedures for SCH and rural referral center designation, to require hospitals to request consideration as a MDH, rather than placing this requirement with the fiscal intermediaries. We will further clarify the MDH policy and process, including the change noted above, through future Program Memoranda.

With respect to the commenter's concern that our impact analysis underestimates the number of newly eligible hospitals under the new provision, we noted in the June 13, 2001 interim final rule with comment period that our most recent data available were 1998, and we were, therefore, unable to estimate the impacts using more recent data. Therefore, the actual impact of this provision may be different as the fiscal intermediaries evaluated hospitals' requests using more recent data.

*F. Reclassification of Certain Urban Hospitals as Rural Hospitals (Sections 401(a) and (b) of Public Law 106–113 and 42 CFR 412.63(b), 412.90(e), 412.102, and 412.103)*

1. Permitting Reclassification of Certain Urban Hospitals as Rural Hospitals

Under Medicare law, the location of a hospital can affect its payment methodology as well as whether the facility qualifies for special treatment both for operating and for capital payments. Whether a facility is situated in an urban or a rural area will, for example, affect payments based on the wage index values and Federal standardized amounts specific to the area. Similarly, the percentage increase in payments made to hospitals that treat a disproportionate share of low-income patients is based, in part, on its urban/rural status, as are determinations regarding a hospital's qualification as an SCH, rural referral center, critical access hospital (CAH), or other special category of facility. Section 1886(d)(2)(D) of the Act defines an ''urban area'' as an area within a MSA as defined by the Office of Management and Budget. The same

provision defines a ''large urban area,'' with respect to any fiscal year, as an urban area that the Secretary determines (in the publications described in section 1886(e)(5) of the Act before the fiscal year) has a population of more than 1 million as determined based on the most recent available published Census Bureau data. Section 1886(d)(2)(D) of the Act further defines a ''rural area'' as an area that is outside of a ''large'' urban area or ''other'' urban area. Since FY 1995, the average standardized amount for hospitals located in rural areas and ''other'' urban areas has been equal, as provided for in section 1886(b)(3)(B)(i)(X) of the Act.

Several provisions of the Act provide procedures under which a hospital can apply for reclassification from one geographic area to another. Section 1886(d)(8)(B) of the Act, which provides that if certain conditions are met, the Secretary shall treat a hospital located in a rural county adjacent to one or more urban areas as being located in the urban area to which the greatest number of workers in the county commute. Also, section 1886(d)(10) of the Act established the MGCRB to permit hospitals that are disadvantaged by their geographic classification to obtain a more appropriate classification to the area with which they have the most economic interaction.

In the August 1, 2000 interim final rule with comment period (65 FR 47029), we implemented section 401(a) of Public Law 106–113. Section 401(a) of Public Law 106–113, which amended section 1886(d)(8) by adding a new paragraph (E), directs the Secretary to treat any subsection (d) hospital located in an urban area as being located in the rural area of the State in which the hospital is located if the hospital files an application (in the form and manner determined by the Secretary) and meets one of the following criteria:

- The hospital is located in a rural census tract of an MSA (as determined under the most recent modification of the Goldsmith Modification, originally published in the **Federal Register** on February 27, 1992 (57 FR 6725));
- The hospital is located in an area designated by any law or regulation of the State as a rural area (or is designated by the State as a rural hospital);
- The hospital would qualify as a rural referral center, or as an SCH if the hospital were located in a rural area; or
- The hospital meets any other criteria specified by the Secretary.

The statutory effective date of this provision is January 1, 2000.

In the August 1, 2000 interim final rule with comment period, we provided a detailed discussion of the development of the Goldsmith Modifications (65 FR 47029). The Goldsmith Modification evolved from an outreach grant program sponsored by the Office of Rural Health Policy of the Health Resources and Services Administration (HRSA) in order to establish an operational definition of rural populations lacking easy geographic access to health services. Using 1980 census data, Dr. Harold F. Goldsmith and his associates created a methodology for identification of rural census tracts that were located within a large metropolitan county of at least 1,225 miles but were so isolated from the metropolitan core by distance or physical features so as to be more rural than urban in character. We utilize data based on 1990 census data, reflecting the most recent Goldsmith modification.

We also included Appendix A of that interim final rule with comment period a listing of the identified urban counties with census tracts that may qualify as rural under the most recent Goldsmith Modification (January 1, 2000). The amendments made by section 401 of Public Law 106–113 enable a hospital located in one of the areas listed in Appendix A of the August 1, 2000 interim final rule with comment period to be treated as if it were situated in the rural area of the State in which it is located.

Additionally, section 401(a) of Public Law 106–113 includes hospitals ''* * * located in an area designated by any law or regulation of such State as a rural area (or is designated by such State as a rural hospital).'' Since the concept of State ''designation'' referred to in the parenthetical clause was not explicit enough to provide a clear-cut rule for purposes of implementation, we required that a hospital's designation as rural be in the form of either State law or regulation if it is the basis for a hospital's request for urban to rural reclassification. We believe this will help ensure that the provision is implemented consistently among States.

Finally, a hospital also may seek to qualify for reclassification premised on the fact that, had it been located in a rural area, it would have qualified as a rural referral center or as an SCH. The hospital would need to satisfy the criteria set forth in section 1886(d)(5)(C) of the Act (as implemented in regulations at § 412.96) as a rural referral center, or the criteria set forth in section 1886(d)(5)(D) of the Act (as implemented in regulations at § 412.92) as an SCH.

Although the statute authorizes the Secretary to specify further qualifying criteria for a section 401 reclassification, we did not believe that additional criteria were warranted at the time the August 1, 2002 interim final rule was published. However, we invited comment specifically on whether the criteria in the interim final rule are sufficient at this time, and if not, what additional criteria should be incorporated.

A hospital that is reclassified as rural under section 1886(d)(8)(E) of the Act, as added by section 401(a) of Public Law 106–113, is treated as rural for all purposes of payment under the Medicare inpatient hospital prospective payment system (section 1886(d) of the Act), including standardized amount (§§ 412.60 *et seq.*), wage index (§ 412.63), and the DSH payment adjustment calculations (§ 412.106) as of the effective date of the reclassification.

*Comment:* One commenter addressed policies discussed in the August 1, 2000 interim final rule with comment period. Other commenters addressed our policy to not permit hospitals that are redesignated as rural under section 1886(d)(8)(E) of the Act to be eligible for subsequent reclassifications by the MGCRB.

*Response:* These policies were addressed in the May 5, 2000 proposed rule (65 FR 26308) and the August 1, 2000 final rule (65 FR 47087) implementing the updates and policy changes to the prospective payment system for FY 2001. We responded to comments on the May 5, 2000 proposed rule in the August 1, 2000 final rule. Because we addressed these concerns in that final rule, we are not readdressing those comments in this final rule.

*Comment:* An association of physicians commented that the interim final rule with comment period stated that a hospital that is reclassified as rural under this provision must be treated as rural for all purposes of payment under the Medicare inpatient hospital prospective payment system, including standardized amount, wage index, and the DSH payment adjustment. However, the commenter pointed out, graduate medical education is not listed. The commenter urged that these hospitals also be considered rural for purposes of graduate medical education.

*Response:* Section 1886(d)(8)(E) of the Act provides that affected hospitals are considered rural for purposes of section 1886(d). Therefore, these reclassifications affect payments to a hospital under the IME adjustment, which are made under section 1886(d)(5)(B) of the Act, but not payments for direct GME, which are made under section 1886(h) of the Act.

2. Conforming Changes under Section 401(b) of Public Law 106–113

Section 401(b) of Public Law 106–113 sets forth conforming statutory changes relating to urban to rural reclassifications under section 401(a) of Public Law 106–113:

• Section 401(b)(1) provided that if a hospital is being treated as being located in a rural area under section 1886(d)(8)(E) of the Act (for purposes of section 1886(d) of the Act), the hospital will also be treated under section 1833(t) of the Act as being located in a rural area. This provision was addressed in the final rule for the hospital inpatient prospective payment system published in the **Federal Register** on August 1, 2000 (65 FR 47087).

• Section 401(b)(2) amended section 1820(c)(2)(B)(i) of the Act by extending the reclassification provisions of section 401(a) to the CAH program. A hospital that otherwise would have fulfilled the requirements for designation as a CAH had it been located in a rural area is now eligible for consideration as a CAH if it is treated as being located in a rural area under section 1886(d)(8)(E) of the Act, as added by section 401(a) of Public Law 106–113. (A list of certain existing hospitals that were identified as being located in Goldsmith areas was included in Appendix B of the August 1, 2000 interim final rule with comment period.) A more detailed discussion of the effect on the CAH program of this provision, as well as additional amendments to section 1820(c)(2)(B)(i) of the Act included in Public Law 106–113, is provided in section VI.B. of this preamble.

3. Application Procedures

The statute provides that a hospital seeking reclassification from urban to rural under section 1886(d)(8)(E) of the Act must submit an application ''in a form and manner determined by the Secretary.'' In the August 1, 2000 interim final rule with comment period, we set forth procedures and requirements for the application for rural reclassification, including application submittal requirements, the filing and effective dates for the application, the procedures for withdrawal of applications, and cancellation of rural reclassification; and the qualifications through the Goldsmith Modification Criteria, by State designation and qualifications as a rural referral center or as an SCH. (See 65 FR 47030 through 47031 for a full discussion of these procedures and requirements.) As of early July 2001, 19 hospitals had taken advantage of this provision.

4. Changes in the Regulations

In the August 1, 2000 interim final rule with comment period, we added a new § 412.103 to incorporate the provisions on the urban to rural reclassification options set forth in section 1886(d)(8)(E) of the Act, as added by section 401(a) of Public Law 106–113, and the application procedures for requesting reclassification.

A formula for transition payments to hospitals located in an area that has undergone geographic reclassification from urban to rural is set forth in section 1886(d)(8)(A) of the Act and implemented in regulations at §§ 412.90 and 412.102. In the interim final rule with comment period, we revised existing §§ 412.63(b)(1) and 412.90(e) and the title of § 412.102 to clarify the distinction between hospital reclassification from urban to rural and the geographic reclassification (or redesignation) of an urban area to rural.

In addition, we revised § 485.610 by redesignating paragraph (b)(4) as paragraph (b)(5) and adding a new paragraph (b)(4) to reflect the conforming provision of section 401(b)(2) of Public Law 106–113.

We did not receive any comments on these changes in the regulations in the interim final rule with comment period and, therefore, are adopting them as final.

*G. Medicare Geographic Classification Review Board (MGCRB) (New § 412.235 and Existing §§ 412.256, 412.273, 412.274(b), and 412.276)*

With the creation of the MGCRB, beginning in FY 1991, under section 1886(d)(10) of the Act, hospitals could request reclassification from one geographic location to another for the purpose of using the other area's standardized amount for inpatient operating costs or the wage index value, or both (September 6, 1990 interim final rule with comment period (55 FR 36754), June 4, 1991 final rule with comment period (56 FR 25458), and June 4, 1992 proposed rule (57 FR 23631)). Implementing regulations in Subpart L of Part 412 (§§ 412.230 *et seq.*) set forth criteria and conditions for redesignations from rural to urban, rural to rural, or from an urban area to another urban area with special rules for SCHs and rural referral centers.

As discussed in section III.F. of this final rule, section 304 of Public Law 106–554 contained several provisions related to the wage index and reclassification decisions made by the MGCRB. In summary, section 304 first establishes that hospital reclassification decisions by the MGCRB for wage index purposes are effective for 3 years, beginning with reclassifications for FY 2001. Second, it provides that the MGCRB must use the 3 most recent years of average hourly wage data in evaluating a hospital's reclassification application for FY 2003 and subsequent years. Third, it provides that an appropriate statewide entity may apply to have all of the geographic areas in a State treated as a single geographic area for purposes of computing and applying the wage index, for reclassifications beginning in FY 2003. In the May 4, 2001 proposed rule, we presented a discussion of how we proposed to implement these three provisions. (Section III.F. of this preamble discusses the application of these policy changes to the development of the final FY 2002 and later wage indexes based on hospital reclassification under the provisions of section 304 of Public Law 106–554.)

1. Three-Year Reclassifications for Wage Index Purposes

Section 304(a) of Public Law 106–554 amended section 1886(d)(10)(D) of the Act by adding clause (v), which provides that, if a hospital is approved for reclassification by the MGCRB for purposes of the wage index, the reclassification is effective for 3 years. The amendment made by section 304(a) is effective for reclassifications for FY 2001 and subsequent years. In addition, the legislation specifies that the Secretary must establish a mechanism under which a hospital may elect to terminate such reclassification during the 3-year period.

Consistent with new section 1886(d)(10)(D)(v) of the Act, in the May 4 proposed rule, we proposed to revise § 412.274(b) to provide under new paragraph (b)(2) that any hospital that is reclassified for a particular fiscal year for purposes of receiving the wage index value of another area would receive that reclassification for 3 years beginning with discharges occurring on the first day (October 1) of the second Federal fiscal year in which a hospital files a complete application. This 3-year reclassification would remain in effect unless the hospital terminates the reclassification under revised procedures that we proposed to establish under new proposed § 412.273(b). The provision would apply to hospitals that are reclassified for purposes of the wage index only, as well as those that are reclassified for both the wage index and the standardized amount. However, in the latter case, only the wage index reclassification would be extended for 2 additional

years beyond the 1 year provided for in the existing regulations (3 years total). Hospitals seeking reclassification for purposes of the standardized amount must continue to reapply to the MGCRB on an annual basis.

a. Special Rule for a Hospital that was Reclassified for FY 2001 and FY 2002 to Different Areas

Because the 3-year effect of the amendment made by section 304(a) of Public Law 106–554 is applicable to reclassifications for FY 2001 (which had already taken place prior to the date of enactment of section 304(a) (December 21, 2000)), and because the application process for reclassifications for FY 2002 had already been completed by the date of enactment, we are establishing special procedures for hospitals that are reclassified for purposes of the wage index to one area for FY 2001, and are reclassified for purposes of the wage index or the standardized amount to another area for FY 2002. We are deeming such a hospital to be reclassified to the area for which it applied for FY 2002, unless the hospital elects to receive the wage index reclassification it was granted for FY 2001. Consistent with our procedures for withdrawing an application for reclassification (§ 412.273), we allowed a hospital that wished to receive the reclassification it was granted for FY 2001 to withdraw its FY 2002 application by making a written request to the MGCRB within 45 days of the publication date of the proposed rule (that is, by June 18, 2001). Again, only the wage index reclassification is extended for 2 additional years (3 years total). Hospitals seeking reclassification for purposes of the standardized amount must continue to reapply to the MGCRB on an annual basis.

(We note that, effective May 21, 2001, the new location and mailing address of the MGCRB and the Provider Reimbursement Review Board (PRRB) is: 2520 Lord Baltimore Drive, Suite L, Baltimore, MD 21244–2670. Please specify whether the mail is intended for the MGCRB or the PRRB.)

b. Overlapping Reclassifications Are Not Permitted

Under the broad authority delegated to the Secretary by section 1886(d)(10) of the Act, in the May 4 proposed rule, we proposed that a hospital that is reclassified to an area for purposes of the wage index may not extend the 3-year effect of the reclassification under section 304(a) of Public Law 106–554 by subsequently applying for reclassification to the same area for purposes of the wage index for a fiscal year that would be within the 3-year period. For example, if a hospital is reclassified for purposes of the wage index to Area A for FY 2002, is approved to receive Area A's wage index for 3 years (FYs 2002, 2003, and 2004), and reapplies to be reclassified to Area A for FYs 2003, 2004, and 2005 (3 years) for purposes of the wage index, the hospital would not be permitted to receive Area A's wage index for FY 2005 as a result of the reapplication. Instead, we proposed that if the hospital wishes to extend the FY 2002 3-year reclassification for fiscal years beyond FY 2004, it would have to apply for reclassification for FY 2005.

We believe new section 1886(d)(10)(D)(v) of the Act replaces the current annual wage index reclassification cycle with a 3-year reclassification cycle. We believe this policy was intended to provide consistency and predictability in hospital reclassification and wage index data, as well as to alleviate the year-to-year fluctuations in the ability of some hospitals to qualify for reclassification. We do not believe it was intended to be used to extend reclassifications for which hospitals otherwise would not be eligible (by reapplying during the second year of a 3-year reclassification because a hospital fears it may not be eligible for reclassification after its current 3-year reclassification expires).

c. Withdrawals of Applications and Terminations of Approved Reclassifications

(1) General

Under § 412.273(a), a hospital, or group of hospitals, may withdraw its application for reclassification at any time before the MGCRB issues its decision or, if after the MGCRB issues its decision, within 45 days of publication of our annual notice of proposed rulemaking concerning changes to the inpatient hospital prospective payment system and proposed payment rates for the fiscal year for which the application was filed. In the May 4 proposed rule, we proposed that the withdrawal procedures and the applicable timeframes in the existing regulations would apply to hospitals that would receive 3-year reclassification for wage index purposes. For example, if a hospital applied for reclassification to Area A for purposes of the wage index for FY 2002, but wished to withdraw its application, it must have done so prior to the MGCRB issuing a decision on its application or, if the MGCRB issued such a decision, within 45 days of the publication date of the proposed rule (that is, by June 18, 2001). Such a withdrawal, if effective, means that the hospital would not be reclassified to Area A for purposes of the wage index for FY 2002 (and would not receive continued reclassification for FYs 2003 and 2004), unless the hospital subsequently cancels its withdrawal (as discussed below). In other words, a withdrawal, if accepted, prevents a reclassification from ever becoming effective.

On the other hand, a reclassification decision that is terminated upon the request of the hospital has partial effect. Section 1886(d)(10)(D)(v) of the Act, as added by section 304(a) of Public Law 106–554, provides that a reclassification for purposes of the wage index is effective for 3 years ''except that the Secretary shall establish procedures under which a . . . hospital may elect to terminate such reclassification before the end of such period.'' Consistent with section 1886(d)(10)(D)(v) of the Act, we proposed to allow a hospital to terminate its approved 3-year reclassification for 1 or 2 years of the 3-year effective period (§ 412.273(b)). This is a separate action from a reclassification withdrawal, which occurs following the initial decision by the MGCRB. A termination would occur during subsequent years. For example, a hospital that has been reclassified for purposes of the wage index for FY 2001 is also reclassified for FYs 2002 and 2003 (3 years). Such a hospital could terminate its approved reclassification so that the reclassification is effective only for FY 2001, or only for FYs 2001 and 2002. Consistent with the prospective nature of reclassifications, we proposed to not permit a hospital to terminate its approved 3-year reclassification for part of a fiscal year. A termination would be effective for the next fiscal year. In order to terminate an approved 3-year reclassification, we would require the hospital to notify the MGCRB in writing within 45 days of the publication date of the annual proposed rule for changes to the inpatient hospital prospective payment system. A termination, unless subsequently cancelled (as discussed below), is effective for the balance of the 3-year period.

We established a special procedural rule for handling FY 2001 reclassifications. As noted above, the amendments made by section 304(a) of Public Law 106–554 are effective for reclassifications for FYs 2001 and beyond, and reclassification decisions for FY 2001 had already been implemented prior to the date of enactment of section 304(a). We deemed those hospitals that were reclassified for

FY 2001 to be reclassified for FYs 2002 and 2003. Therefore, if a deemed hospital that was reclassified for purposes of the wage index for FY 2001 wished to terminate its reclassification for FY 2002 and FY 2003, the hospital had to notify the MGCRB in writing by June 18, 2001 (that is, within 45 days after the publication of the proposed rule).

(2) Cancellation of a Withdrawal of Application or a Termination of an Approved Reclassification

In the May 4 proposed rule, we proposed that if a hospital elects to withdraw its 3-year reclassification application after the MGCRB has issued its decision, it may cancel its withdrawal in a subsequent fiscal year and request the MGCRB to reinstate its reclassification for the remaining fiscal years of the 3-year reclassification period. (This proposal was consistent with our proposal that 3-year reclassification periods may not overlap, as discussed in section IV.G.1.b. of this preamble.) Alternatively, a hospital may apply for reclassification to a different area (that is, an area different from the one to which it was originally reclassified), and if successful, the reclassification effect would be for 3 years.

Similarly, and for the same reasons, we proposed that if a hospital elects to terminate its accepted 3-year reclassification prior to the second or third year of that reclassification, it may cancel that termination and have its original reclassification reinstated for the duration of the original 3-year period. Alternatively, a hospital could apply for reclassification to a different area after terminating a prior 3-year reclassification and receive a new 3-year period of reclassification.

*Example 1:* Hospital A files an application and the MGCRB issues a decision to reclassify it to Area B for purposes of wage index for FY 2002 through FY 2004 (3 years). Within 45 days after the publication of the proposed rule, Hospital A withdraws its application. Within the time for applying for a FY 2003 reclassification, Hospital A cancels its withdrawal for classification to Area B. Its reclassification to Area B is reinstated, but only for FYs 2003 and 2004.

*Example 2:* Hospital B files an application for reclassification for wage index purposes for FY 2002 through FY 2004 and the MGCRB issues a decision for reclassification to Area C. Within 45 days after publication of the proposed rule, Hospital B withdraws its application. Hospital B does not cancel its withdrawal of the application. Hospital B timely applies and is reclassified to Area D for 3 years, beginning with FY 2003. In this case, the reclassification to Area D would be for FYs 2003 through 2005.

*Example 3:* Hospital C is reclassified to Area A for purposes of the wage index for FY 2002, and terminates its 3-year reclassification effective for FYs 2003 and 2004. Within the timeframe for applying for FY 2004 reclassification, Hospital C cancels its termination. Its reclassification to Area A would be reinstated for FY 2004 only.

*Example 4:* Hospital D has the same circumstances as Hospital C in Example 3, except that instead of canceling its termination, Hospital D applies and is reclassified to Area B for FY 2004. In this case, the reclassification would be for FYs 2004 through 2006.

d. Special Rules for Group Reclassifications

Section 412.232 discusses situations where all hospitals in a rural county are seeking urban redesignation, and § 412.234 discusses criteria where all hospitals in an urban county are seeking redesignation to another urban county. In these cases, hospitals submit an application as a group, and all hospitals in the county must be a party to the application. The reclassification is effective both for purposes of the wage index and the standardized amount of the area to which the hospitals are reclassified.

Section 304(a) of Public Law 106–554 does not specifically address the group reclassification situations under §§ 412.232 and 412.234. However, we believe that, in the case of hospitals reclassified under these group reclassification procedures, it would be appropriate to extend the 3-year reclassification provision to these situations for the wage index only. In order to be reclassified for the standardized amount during the second and third years of a 3-year reclassification for the wage index, the hospitals located in these counties would have to reapply on an annual basis to the MGCRB either as a group or as individual hospitals and meet the criteria outlined in § 412.232, § 412.234, or § 412.230, as appropriate.

Hospitals that are part of a group reclassification would be able to terminate their 3-year wage index reclassifications in the same manner as described above. If one hospital within the group elects to terminate its 3-year wage index reclassification, the reclassification of other hospitals in the group would be unaffected. The same rules for withdrawing from a group reclassification that are in effect now would continue. That is, all of the hospitals that are party to a group reclassification application must consent for a withdrawal to be approved.

Under section 152(b) of Public Law 106–113, hospitals in certain counties were deemed to be located in specified areas for purposes of payment under the hospital inpatient prospective payment system, for discharges occurring on or after October 1, 2000. For payment purposes, these hospitals are to be treated as though they were reclassified for purposes of both the standardized amount and the wage index. Section 152(b) also requires that these reclassifications be treated for FY 2001 as though they are reclassification decisions by the MGCRB. For purposes of applying the 3-year extension of wage index reclassifications, we proposed to extend section 1886(d)(10)(D)(v) to hospitals reclassified under section 152(b) of Public Law 106–113. These hospitals also would have to apply for the standardized amount on an annual basis to the MGCRB.

e. Administrator Authority to Cancel Inappropriate Reclassification Decisions

In the proposed rule we indicated that, under the provisions of § 412.278(g), the Administrator has the authority to review an inappropriate reclassification decision made by the MGCRB, as discovered by either the hospital or CMS, including 3-year reclassifications in the second and third years. The statement that this authority extended to the second and third years of 3-year reclassification was in error. Under the statute and our regulations, reclassification decisions are unreviewable once they become final. This principle applies to 3-year reclassification decisions. Once such a decision becomes final, it is unreviewable thereafter.

*Comment:* Several commenters expressed concern that we proposed that a hospital that is reclassified to an area for purposes of the wage index may not extend the 3-year effect of the reclassification under section 304(a) of Public Law 106–554, by subsequently applying for reclassification to the same area for purposes of the wage index for a fiscal year that would be within the 3-year period. These commenters argued that there is nothing in the statutory language that prohibits hospitals that are already approved for 3-year reclassifications from reapplying within that 3-year period to extend their reclassifications into future years. These commenters also pointed out that extending their wage index reclassifications in this way allows them to make budgetary commitments further into the future and fosters a more stable operating environment for their hospitals.

*Response:* Under section 1886(d)(10) of the Act, the Secretary has broad authority to establish policies and

criteria with respect to the evaluation and approval of applications for reclassification. As indicated in the proposed rule, we believe that new section 1886(d)(10)(D)(v) of the Act, as added by section 304(a) of Public Law 106–554, replaces the annual reclassification cycle with a 3-year reclassification cycle. We believe that, if a hospital is already reclassified to a given geographic area for a 3-year period, it is appropriate to avoid expending resources to evaluate an application for reclassification to that same area for the second and third years of the 3-year period. Thus, if a hospital is already reclassified for a given fiscal year, and submits an application for reclassification to the same area for the same year, that application will not be approved. We are adding language to § 412.230(a)(5)(v) in this final rule to specify that an application for reclassification will not be approved under these circumstances.

*Comment:* One commenter supported our proposal to reclassify a hospital based on its FY 2002 approval unless the hospital notified the MGCRB otherwise by June 18, 2001. This commenter questioned whether or not hospitals would have this same option in future years. In other words, if a hospital successfully sought reclassification to a different area for FY 2003 and then withdrew that reclassification, would that hospital have the option to fall back on the FY 2002 reclassification, or would it then not be reclassified.

*Response:* We appreciate the commenter's support of our proposal on this issue. This was specifically put in place because the new 3-year reclassification policy was not enacted until well after the reclassification process for FY 2002 was underway. Therefore, some hospitals may have sought reclassification to a different area or for a different purpose than they did for FY 2001, and the option to carry forward a FY 2001 wage index reclassification for 3 years may have changed their decisions.

This policy applies in future years as well. For example, a hospital that successfully seeks reclassification for the wage index for FY 2004 to Area A, then successfully seeks reclassification for FY 2005 for the wage index to Area B, has the option to withdraw its FY 2005 decision, thereby reinstating its FY 2004 decision. However, if the hospital successfully withdraws its FY 2005 decision, the hospital cannot return to its FY 2005 decision without reapplying at a later date.

*Comment:* Several commenters expressed uncertainty about the timing of the extension of the wage index reclassification for 3 years. Some hospitals had successfully applied for FY 2001 as well as FY 2002 to the same area for the wage index, and it was not clear to these hospitals whether their wage index reclassifications were effective through FY 2003 or through FY 2004.

*Response:* As noted above, section 304(a) provides for 3-year wage index reclassifications effective with FY 2001 reclassifications. In the case of hospitals reclassified to the same area for both FY 2001 and FY 2002, because hospitals had already submitted their FY 2002 applications prior to enactment of Public Law 106–554, and the MGCRB had already issued its decision on these applications prior to publication of the May 4 proposed rule, we will consider FY 2002 to be the first year of the 3-year reclassification for these hospitals. Therefore, the reclassification period will extend through FY 2004. If a hospital was approved for FY 2001 for a wage index reclassification, but was unsuccessful in seeking a wage index reclassification for FY 2002, then its wage index reclassification would be effective for FY 2001, FY 2002, and FY 2003, and the hospital would have to reapply to seek reclassification for FY 2004.

*Comment:* One commenter supported our proposal that a hospital could cancel its withdrawal of an approved reclassification for the wage index in a future year in order to reinstate its original MGCRB approval.

*Response:* We appreciate the commenter's support of our proposal that hospitals reclassified for the wage index that then withdraw that approval have the ability to cancel the withdrawal, in effect reinstating the hospital's original reclassification approval for the wage index. We provided this option so that a hospital that later discovers that the withdrawal of its approved wage index reclassification was disadvantageous would have the ability to reinstate its MGCRB approval for the wage index for the remaining years in the 3-year term. However, a hospital is eligible to revert to its most recent MGCRB approval only.

In addition, the same process applies to cancellations of a withdrawal or termination as applies to requests for withdrawals and terminations. A hospital must request a cancellation of its withdrawal or termination within the 45-day period after the proposed rule is published, and that cancellation will become effective for the following Federal fiscal year.

*Comment:* Several commenters supported our proposal to extend the 3-year reclassification provision for the wage index to those hospitals that were reclassified for FY 2001 under section 152(b) of Public Law 106–113. While these hospitals did not successfully apply for reclassification through the MGCRB, they were effectively ''reclassified'' by this legislation, and the commenters believed that it would be correct to extend the 3-year wage index reclassification to this group of hospitals.

*Response:* We appreciate the commenters' support of our proposal. Section 152(b) of Public Law 106–113 required that the assignment of these hospitals to alternative geographic areas should be treated as if they were decisions of the MGCRB. As a result, these hospitals will be reclassified for the wage index to their designated areas for FY 2002 and FY 2003. They will be required to apply for reclassification to the MGCRB for FY 2004 if they wish to retain this reclassification for subsequent years.

2. Three-Year Average Hourly Wages

Section 304(a) of Public Law 106–554 amended section 1886(d)(10)(D) of the Act by adding clause (vi) which provides that the MGCRB must use the average of the 3 most recent years of hourly wage data for the hospital when evaluating a hospital's request for reclassification. Specifically, the MGCRB must base its evaluation on an average of the average hourly wage for the most recent years for the hospital seeking reclassification and the area to which the hospital seeks to reclassify. This provision is effective for reclassifications for FY 2003 and subsequent years. (Section III.F. of this preamble discusses the development and application of the hospital's 3-year average hourly wage data (Table 2 in the Addendum to this final rule) that the MGCRB will use to evaluate hospitals' applications for reclassifications for FY 2003; and the MSA and statewide rural 3-year average hourly wage data (Tables 3A and 3B in the Addendum to this final rule) for hospital reclassification applications for FY 2003.)

In the May 4, 2001 proposed rule, we proposed to revise §§ 412.230(e)(2) and 412.232(d)(2) to incorporate the provisions of section 1886(d)(10)(D)(vi) of the Act as added by section 304(a) of Public Law 106–554. Specifically, we provided that, for redesignations effective beginning FY 2003, for hospital-specific data, the hospital must provide a 3-year average of its average hourly wages using data from our hospital wage survey used to construct

the wage index in effect for prospective payment purposes. For data for other hospitals, we proposed to require hospitals to provide a 3-year average of the average hourly wage in the area in which the hospital is located and a 3-year average of the average hourly wage in the area to which the hospital seeks reclassification. The wage data would be taken from the CMS hospital wage survey used to construct the wage index for prospective payment purposes, as published in Tables 2, 3A, and 3B of this final rule (unless those data are subsequently changed by CMS). The 3-year averages are calculated by dividing the sum of the dollars (adjusted to a common reporting period using the method described in section III. of this final rule) across all 3 years, by the sum of the hours.

*Comment:* Several commenters responded positively to our proposal to use a 3-year average of the most recent 3 years of average hourly wages based on data from our hospital wage survey used to construct the wage index when evaluating a hospital's request for reclassification. Under the proposal, if data does not exist for all 3 years, the available data within the 3-year period will be used to construct the average.

While it was clear to these commenters that these data will be used to construct the average hourly wage for a hospital applying for reclassification, they noted it was not clear to them whether the 3-year average would also be used for the area in which that hospital is physically located as well as the area to which that hospital seeks reclassification.

*Response:* We appreciate the commenters' support of our proposal to calculate the 3-year average hourly wage based on the data available during the applicable 3-year period, even if a hospital does not have data in all 3 years.

As noted above, the MGCRB will evaluate applications using the 3-year average hourly wages for hospitals and geographic areas as published in Tables 2, 3A, and 3B of this final rule (unless those data are subsequently changed by CMS).

*Comment:* One commenter requested that in cases of a change in ownership, a hospital be permitted the option of excluding prior years' wage data submitted by a previous owner for the purpose of calculating the average of the average hourly wages in order to qualify for reclassification. As a result, the average of the average hourly wages would be based on current and prior year data submitted by the new owner only.

*Response:* We believe we should treat these cases in a manner consistent with how we treat hospitals whose ownership has changed for other Medicare payment purposes. That is, where a hospital has simply changed ownership and the new owners have acquired the assets and liabilities of the previous owners, all of the applicable wage data associated with that hospital are included in the calculation of its 3-year average hourly wage. On the other hand, in the case of a new hospital, where there is no legal obligation to the operations of a predecessor hospital, the wage data associated with the previous hospital's provider number would not be used in calculating the new hospital's 3-year average hourly wage.

3. Statewide Wage Index

As stated earlier, section 304(b) of Public Law 106–554 provides for a process under which an appropriate statewide entity may apply to have all the geographic areas in the State treated as a single geographic area for purposes of computing and applying the area wage index for reclassifications beginning in FY 2003.

Section 304 does not indicate the duration of the application of these statewide wage indexes. However, it should be noted that the statutory language does refer to these applications as reclassifications. In the May 4, 2001 proposed rule, we proposed that these statewide wage index applications be processed similar to MGCRB applications, with the same effective dates of the decisions and the withdrawal and termination process. Therefore, similar to wage index reclassification decisions under section 1886(d)(10)(D)(v) of the Act as added by section 304(a) of Public Law 106–554, the statewide wage index reclassification would be effective for a total of 3 years. The same deadlines and timetable applicable to MGCRB reclassification applications would apply for statewide wage index applications.

We proposed to establish a new § 412.235 to include the requirements for statewide wage indexes. We proposed to apply the following criteria to determine whether hospitals would be approved for a statewide geographic wage index reclassification (§ 412.235(a)):

- There must be unanimous support for a statewide wage index among hospitals in the State in which the statewide wage index would be applied. We would require a signed affidavit on behalf of all the hospitals in the State of this support as part of the application for reclassification.
- All hospitals in the State must apply through a signed single application for the statewide wage index in order for the application to be considered by the MGCRB. We believe this is necessary to ensure that every hospital in the State is included in the application, since the payment of every hospital would be affected by the statewide wage index.
- There must be unanimous support for the termination or withdrawal of a statewide wage index among hospitals in the State in which the statewide wage index would be applied. We would require a signed affidavit for this agreement.
- All hospitals in the State waive their rights to any wage index that they would otherwise receive absent the statewide wage index, including a wage index that any of the hospitals might have received through individual or group geographic reclassification under § 412.273(a).

An individual hospital within the State may receive a wage index that could be higher or lower under the statewide wage index reclassification in comparison to its wage index otherwise (§ 412.235(b)). Specifically, hospitals must be aware that there may be a reduction in the wage index as a result of participation on a statewide basis.

In addition, we proposed to consider statewide wage index applications under the same process we use for hospital reclassification applications, including the effective dates of the MGCRB decision and the withdrawal and termination process (§ 412.235(c)). We proposed that applications for the statewide wage index would be effective for 3 years beginning with discharges occurring on the first day (October 1) of the second Federal fiscal year following the Federal fiscal year in which the hospitals file a complete application unless all of the participating hospitals withdraw their application or terminate their approved statewide wage index reclassification earlier, as discussed below. Once approved by the MGCRB, an application for a statewide wage index can only be withdrawn or terminated as a result of a signed affidavit on behalf of all the hospitals in the State indicating their request that the statewide reclassification be withdrawn or terminated. A request for withdrawal or termination must be submitted within 45 days of the publication of the annual proposed rule for the inpatient hospital prospective payment system announcing the reclassification. New hospitals that open prior to the September 1 deadline for submitting an application for a statewide wage index, but after a group

application has been submitted, would be required to agree to the statewide wage index in order for the group application to remain viable. New hospitals that open after the deadline for submitting an application would receive the statewide wage index. The agreement of new hospitals would also be required in order to withdraw or terminate a statewide wage index reclassification. The rules discussed under section IV.G.1.c. of this preamble for withdrawals of applications and terminations of approved 3-year wage index reclassification decisions would apply to decisions regarding statewide wage index reclassifications.

*Comment:* Several commenters believed that Washington, DC should be recognized as a State for purposes of this statewide wage index reclassification policy. However, they were concerned that, while such a recognition may benefit hospitals located in Washington, DC, it may not benefit hospitals that are currently located outside of Washington, DC but within the Washington, D.C.–MD–VA–WV MSA. As a result, while these commenters believed that Washington, DC should be recognized as a State for this purpose, they also requested guidance about how the remainder of the hospitals in the current MSA would be treated.

One commenter did not believe that Washington, DC should be considered a State for this purpose. However, this commenter also stated that, should we decide that Washington, DC could be considered a State for this purpose, we should configure the criteria such that none of the hospitals that are currently located in the Washington, D.C.–MD–VA–WV MSA would be harmed.

*Response:* Section 304(b) of Public Law 106–554 directs the Secretary to establish a process ''under which an appropriate statewide entity may apply to have all the geographic areas in a State treated as a single geographic area for purposes of computing and applying the area wage index under section 1886(d)(3)(E) of [the Social Security] Act. * * *'' Most States encompass multiple labor market areas (urban MSAs and rural areas) with differing wage indexes, and we believe that the intent of section 304(b) is to offer hospitals within a State the opportunity to eliminate the disparate wage indexes resulting from separate urban and rural labor market areas within the State. However, hospitals in Washington, DC are not subject to disparate wage indexes. Washington, DC is part of a larger labor market area where all the hospitals receive the wage index for that labor market area (subject to MGCRB reclassifications). Put another way, Washington, DC is *already* ''treated as a single geographic area'' for purposes of the hospital wage index.

If we treated Washington, DC as a separate distinct labor market area and applied the usual wage index methodology, Washington, DC hospitals might reap a significant windfall and the hospitals remaining in the MSA might be disadvantaged. Given the intended purpose of section 304(b), we believe that such results would be inappropriate. We believe that Congress did not intend for section 304(b) to address the type of situation presented by Washington, DC.

As indicated above, section 304(b) permits a State to be treated as a single geographic area ''for purposes of computing and applying the area wage index under section 1886(d)(3)(E) of [the] Act.'' Section 304(b) does not specify how to compute and apply the wage index for statewide geographic areas. Under section 1886(d)(3)(E) of the Act, the Secretary has broad authority to develop and apply the methodology for determining the wage index for labor market areas, and section 304(b) did not limit the agency's authority. Thus, even if Washington, DC is a State for purposes of section 304(b), the Secretary has broad authority under section 1886(d)(3)(E) to determine the wage index for all affected hospitals. Given the purpose of section 304, and to avoid conferring an inappropriate and unintended windfall (or disadvantage) to hospitals, we are providing (pursuant to our broad authority under section 1886(d)(3)(E) of the Act) that, even if Washington, DC is a State for purposes of section 304(b) of Public Law 106–554, the wage index applicable to the Washington, DC ''statewide'' geographic area would be the same wage index that would apply to the Washington, DC–MD–VA–WV MSA as a whole (which would be calculated by including Washington, DC hospitals, in accordance with all applicable rules).

*H. Payment for Direct Costs of Graduate Medical Education (§ 413.86)*

1. Background

Under section 1886(h) of the Act, Medicare pays hospitals for the direct costs of graduate medical education (GME). The payments are based in part on the number of residents trained by the hospital. Section 1886(h) of the Act, as amended by section 4623 of Public Law 105–33, caps the number of residents that hospitals may count for direct GME.

Section 1886(h)(2) of the Act, as amended by section 9202 of the Consolidated Omnibus Reconciliation Act (COBRA) of 1985 (Public Law 99–272), and implemented in regulations at § 413.86(e), establishes a methodology for determining payments to hospitals for the costs of approved GME programs. Section 1886(h)(2) of the Act, as amended by COBRA, sets forth a payment methodology for the determination of a hospital-specific, base-period per resident amount (PRA) that is calculated by dividing a hospital's allowable costs of GME for a base period by its number of residents in the base period. The base period is, for most hospitals, the hospital's cost reporting period beginning in FY 1984 (that is, the period of October 1, 1983 through September 30, 1984). The PRA is multiplied by the number of FTE residents working in all areas of the hospital complex (or nonhospital sites, when applicable), and the hospital's Medicare share of total inpatient days to determine Medicare's direct GME payments. In addition, as specified in section 1886(h)(2)(D)(ii) of the Act, for cost reporting periods beginning on or after October 1, 1993, through September 30, 1995, each hospital's PRA for the previous cost reporting period is not updated for inflation for any FTE residents who are not either a primary care or an obstetrics and gynecology resident. As a result, hospitals with both primary care and obstetrics and gynecology residents and nonprimary care residents have two separate PRAs beginning in FY 1994: one for primary care and obstetrics and gynecology and one for nonprimary care.

Section 1886(h)(2) of the Act was further amended by section 311 of Public Law 106–113 to establish a methodology for the use of a national average PRA in computing direct GME payments for cost reporting periods beginning on or after October 1, 2000, and on or before September 30, 2005. Generally, section 1886(h)(2) of the Act establishes a ''floor'' and a ''ceiling'' based on a locality-adjusted, updated, weighted average PRA. Each hospital's PRA is compared to the floor and ceiling to determine whether its PRA should be revised. PRAs that are below the floor, that is, 70 percent of the locality-adjusted, updated, weighted average PRA, would be revised to equal 70 percent of the locality-adjusted, updated, weighted average PRA. PRAs that exceed the ceiling, that is, 140 percent of the locality-adjusted, updated, weighted average PRA, would, depending on the fiscal year, either be frozen and not increased for inflation, or increased by a reduced inflation factor.

We implemented section 311 of Public Law 106–113 in the hospital inpatient prospective payment system final rule published on August 1, 2000 (65 FR 47090). In that final rule, we set forth the methodology for calculating the weighted average PRA and outlined the steps for determining whether a hospital's PRA would be revised.

2. Amendments Made by Section 511 of Public Law 106–554 (§ 413.86(e)(4)(ii)(C) and (e)(5)(iv))

Section 511 of Public Law 106–554 amended section 1886(h)(2)(D)(iii) of the Act by increasing the floor to 85 percent of the locality-adjusted national average PRA. In general, section 511 provides that, effective for cost reporting periods beginning on or after October 1, 2001, and before October 1, 2002, PRAs that are below 85 percent of the respective locality-adjusted national average PRA would be increased to equal 85 percent of that locality-adjusted national average PRA. Accordingly, we proposed to implement section 511 by revising § 413.86(e)(4)(ii)(C)(*1*) to incorporate this change and by outlining the methodology for determining whether a hospital's PRA(s) will be adjusted in FY 2002 relative to the increased floor of the locality-adjusted national average PRA.

In the August 1, 2000 final rule (65 FR 47091 and 47092), as implemented at § 413.86(e)(4), we determined, in accordance with section 311 of Public Law 106–113, that the weighted average PRA for cost reporting periods ending during FY 1997 is $68,464. We described the procedures for updating the weighted average PRA of $68,464 for inflation to FY 2001 and for adjusting this average for the locality of each individual hospital. We then outlined the steps for comparing each hospital's PRA(s) to the locality-adjusted national average PRA to determine if, for cost reporting periods beginning on or after October 1, 2000, and before October 1, 2001, the PRAs should be revised to equal the 70-percent floor.

In accordance with section 511 of Public Law 106–554, in the May 4 proposed rule, we proposed that, for cost reporting periods beginning during FY 2002, the FY 2002 PRAs of hospitals that are below 85 percent of the respective locality-adjusted national average PRA for FY 2002 be increased to equal 85 percent of that locality-adjusted national average PRA. Specifically, to determine which PRAs (primary care and nonprimary care separately) for each hospital are below the 85-percent floor, each hospital's locality-adjusted national average PRA for FY 2002 is multiplied by 85 percent. This resulting number is then compared to each hospital's PRA that is updated for inflation to FY 2002. If the hospital's PRA would be less than 85 percent of the locality-adjusted national average PRA, the individual PRA is *replaced* with 85 percent of the locality-adjusted national average PRA for that cost reporting period, and in future years the new PRA would be updated for inflation by the Consumer Price Index for All Urban Consumers (CPI–U) as compiled by the Bureau of Labor Statistics.

There may be some hospitals with both primary care and nonprimary care PRAs that are below the floor, and both PRAs are, therefore, replaced with 85 percent of the locality-adjusted national average PRA. In these situations, the hospitals would receive a single PRA; a distinction between PRAs would no longer be made based on the different inflation adjustments (under § 413.86(e)(3)(ii)). On the other hand, hospitals may have primary care PRAs that are above the floor, and nonprimary care PRAs that are below the floor. In these situations, only the nonprimary care PRAs would be revised to equal 85 percent of the locality adjusted national average PRA, and the prior year primary care PRAs would be updated for inflation by the CPI–U. An example of application of this provision appeared in the preamble of the May 4, 2001 proposed rule (66 FR 33697).

We note that section 511 of Public Law 106–554 only affects hospitals with PRAs below the 85-percent floor, and does not affect hospitals with PRAs that are either between the floor and ceiling or exceed the ceiling. Thus, with the exception of the change in the floor as provided by section 511, the policy regarding the use of a national average PRA for making direct GME payments remains as implemented in the regulations at § 413.86(e)(4).

We proposed to amend § 413.86(e)(4)(ii)(C)(*1*) to add the rules implementing section 1886(h)(2)(D)(iii) of the Act as amended by section 511 of Public Law 106–554.

We also proposed to amend § 413.86(e)(5) regarding the determination of base year PRAs for new teaching hospitals for cost reporting periods beginning during FYs 2001 through 2005. In the August 1, 2000 final rule, we made a conforming change to § 413.86(e)(5) to account for situations in which hospitals do not have a 1984 base year PRA and establish a PRA in a cost reporting period after the 1984 base year. Existing § 413.86(e)(5)(iv) specifies that the new base year PRAs of such hospitals are subject to the regulations regarding the floor and the ceiling of the locality-adjusted national average PRA. Although the determination of new base year PRAs is subject to the national average methodology, it is not necessary to include this provision in the regulations. Therefore, we proposed to remove § 413.86(e)(5)(iv).

In the proposed rule, we clarified that, for purposes of calculating a base year PRA for a new teaching hospital, when calculating the weighted mean value of PRAs of hospitals located in the same geographic area or the weighted mean value of the PRAs in the hospital's census region (as defined in § 412.62(f)(1)(i)), the PRAs used in the weighted average calculation must not be less than the floors for cost reporting periods beginning during FY 2001 or FY 2002, or if they exceed the ceiling, they must either be frozen for FYs 2001 and 2002 or updated with the CPI–U minus 2 percent for FYs 2003 through 2005. In addition, existing § 413.86(e)(5) provides that the PRA for a new teaching hospital is based on the *lower of* the hospital's actual costs incurred in connection with the GME program or the weighted mean value of PRAs. If a hospital's actual costs of the GME program during its cost reporting period beginning during FY 2001 or FY 2002 are *less* than the floors, the hospital's PRA would *not* be based on the actual costs. Instead, it would be equal to 70 percent in FY 2001, or 85 percent during FY 2002, of the locality-adjusted national average PRA. The floor applies to hospitals with existing PRAs in FYs 2001 and 2002, or to hospitals that are establishing new base year PRAs in FYs 2001 and 2002. We proposed to clarify that if a hospital establishes a new base year PRA in a cost reporting period beginning *after* FY 2002, its PRA would *not* be increased to equal the floor if it is less than the floor. Similarly, the ceiling applies to hospitals with existing PRAS in FYs 2001 through 2005, or to hospitals that are establishing new base year PRAs in FYs 2001 through 2005.

*Comment:* One commenter believed that the provision to increase the PRA floor to 85 percent of the locality-adjusted national average will address many concerns about the fairness of GME payments. One commenter asked if the provisions of the proposed rule to increase PRAs that are less than 85 percent of the locality-adjusted national average PRA to equal 85 percent of the locality-adjusted national average PRA would provide relief to hospitals who do not have base year PRAs established in the 1984 base year and could not increase their PRAs because the appeal period has elapsed.

*Response:* Section 511 of the Public Law 106–554 amended section 1886(h)(2)(D)(iii) of the Act by increasing the floor to 85 percent of the locality adjusted national average PRA. Effective for cost reporting periods beginning on or after October 1, 2001 and before October 1, 2002, any PRAs that are below 85 percent of the respective locality-adjusted national average PRA would be increased to equal 85 percent of that locality-adjusted national average PRA. Accordingly, hospitals with PRAs (primary care and/or nonprimary care) that are less than 85 percent of the respective locality-adjusted national average PRA for the hospital's cost reporting period beginning on or after October 1, 2001 and before October 1, 2002, will have those PRAs increased to equal 85 percent of that locality-adjusted national average PRA. This provision sets the floor on per resident amounts for cost reporting periods beginning during FY 2002, regardless of the base year used to establish the hospital's PRA.

*Comment:* One commenter requested that we clarify the references in the preamble stating that the national average PRA methodology is applicable for ''cost reporting periods beginning on or after October 1, 2000 and on or before September 30, 2005.'' The commenter believed that the PRA changes authorized in the law were meant to be permanent, and therefore, did not understand the basis for the September 30, 2005 endpoint.

*Response:* The changes made to a hospital's PRA as a result of section 311 of Public Law 106–113 and section 511 of Public Law 106–554 are permanent. However, this *new methodology* for determining whether or not a hospital's PRA is *revised,* as described in the statute, is only effective for cost reporting periods beginning on or after October 1, 2000 and on or before September 30, 2005. For cost reporting periods beginning on or after October 1, 2005, a hospital's PRA, *whether or not it was revised by the new methodology,* is updated with the full CPI–U, using the procedures in place prior to October 1, 2000. If a hospital's PRAs are below the floors, they will be revised accordingly in FYs 2001 or 2002, or both. After FY 2002, that hospital's revised PRA will be updated for inflation as usual, that is, using the procedures in place for all PRAs prior to October 1, 2000. If a hospital's PRAs exceed the ceiling, the PRAs would be frozen in FYs 2001 and 2002, and updated with a reduced inflation factor in FYs 2003, 2004, and 2005. Thus, after September 30, 2005, although any changes made to a hospital's PRAs as a result of the new methodology would remain in place, the procedure for updating PRAs reverts back to the procedure in place prior to October 1, 2000, that is, updating for inflation with the full CPI–U.

*Comment:* One commenter requested that we publish in the final rule the CPI–U factors that must be used to update the 1997 national average PRA to the midpoint of a hospital's cost reporting period beginning in FY 2001.

*Response:* As the commenter requested, we are including below the CPI–U factors. For cost reporting periods beginning on or after October 1, 2000 and before October 1, 2001, the following update factors should be used when implementing section 311 of Public Law 106–113. Specific instructions for applying these factors can be found in the hospital inpatient prospective payment system final rule published on August 1, 2000 (65 FR 47091). (Refer to the bottom of the middle column and the right column on page 47091 for ''Step 1: Update the weighted average PRA for inflation''.)

GME UPDATE FACTORS FOR MIDPOINT OF PERIODS ENDING IN FY 1997 TO COST REPORTING PERIODS BEGINNING IN FY 2001 USING THE CPI (U)—ALL ITEMS

| Update weighted average PRA from: | To midpoint of cost reporting period beginning: | Use update factor of: * |
|---|---|---|
| October 1, 1996 | October 1, 2000 | 1.11200 |
| October 1, 1996 | November 1, 2000 | 1.11389 |
| October 1, 1996 | December 1, 2000 | 1.11579 |
| October 1, 1996 | January 1, 2001 | 1.11800 |
| October 1, 1996 | February 1, 2001 | 1.12053 |
| October 1, 1996 | March 1, 2001 | 1.12307 |
| October 1, 1996 | April 1, 2001 | 1.12465 |
| October 1, 1996 | May 1, 2001 | 1.12528 |
| October 1, 1996 | June 1, 2001 | 1.12591 |
| October 1, 1996 | July 1, 2001 | 1.12780 |
| October 1, 1996 | August 1, 2001 | 1.13097 |
| October 1, 1996 | September 1, 2001 | 1.13414 |

* Source: Forecast by Standard and Poor's DRI; Historical Data through August 2000.

3. Determining the 3-Year Rolling Average for Direct GME Payments (§ 413.86(g)(4) and (g)(5))

Section 1886(h)(4)(G)(iii) of the Act, as added by section 4623 of Public Law 106–33, provides that for the hospital's first cost reporting period beginning on or after October 1, 1997, the hospital's weighted FTE count for direct GME payment purposes equals the average of the weighted FTE count for that cost reporting period and the preceding cost reporting period. For cost reporting periods beginning on or after October 1, 1998, section 1886(h)(4)(G) of the Act requires that hospitals' direct medical education weighted FTE count for payment purposes equal the average of the actual weighted FTE count for the payment year cost reporting period and the preceding two cost reporting periods (rolling average). This provision phases in the associated reduction in payment over a 3-year period for hospitals that are reducing their number of residents.

In the August 29, 1997 final rule with comment period (62 FR 46004), we revised § 413.86(g)(5) accordingly, and outlined the methodology for determining a hospital's direct GME payment. Based on what we explained in the 1997 final rule, for cost reporting periods beginning on or after October 1, 1997, we would determine a hospital's direct GME payment as follows:

*Step 1.* Determine the average of the weighted FTE counts for the payment year cost reporting period and the prior two immediately preceding cost reporting periods (with exception of the hospital's first cost reporting period beginning on or after October 1, 1997, which will be based on the average of the weighted average for that cost

reporting period and the immediately preceding cost reporting period).

*Step 2.* Determine the hospital's direct GME amount without regard to the FTE cap (before determining Medicare's share). That is, take the sum of (a) the product of the primary care PRA and the primary care weighted FTE count in the current payment year, and (b) the product of the nonprimary care PRA and the nonprimary care weighted FTE count in the current payment year.

*Step 3.* Divide the hospital's direct GME amount by the total number of FTE residents (including the effect of weighting factors) for the cost reporting period to determine the weighted average PRA (this amount reflects the FTE weighted average of the primary and nonprimary care PRAs) for the cost reporting period.

*Step 4.* Multiply the weighted average PRA for the cost reporting period by the 3-year average weighted count to determine the hospital's allowable direct GME costs. This product is then multiplied by the hospital's Medicare patient load for the cost reporting period to determine Medicare's direct GME payment to the hospital.

Steps 2 and 3 above describe the methodology for combining a hospital's primary care PRA and nonprimary care PRA to determine the hospital's single weighted average PRA for the payment year cost reporting period. (This step accounts for hospitals that were training residents in both primary care and nonprimary care residency programs in FYs 1994 and 1995, when, as described in § 413.86(e)(3)(ii), each hospital's PRA for the previous cost reporting period was not adjusted for any resident FTEs who were not either a primary care resident or an obstetrics and a gynecology resident. As a result, such hospitals have two PRAs for direct GME payment; one for primary care and obstetrics and gynecology residents, and one for all other, or nonprimary care, residents. Hospitals that train either only primary care (including obstetrics and gynecology) residents or only nonprimary care residents follow the methodology described above, with the exception of combining two PRAs. Step 4 then dictates that the resulting average PRA is multiplied by the 3-year rolling average, which, in turn, is multiplied by the hospital's Medicare patient load in the current year to determine Medicare's direct GME payment to the hospital for that cost reporting period.

In implementing this provision in the August 29, 1997 final rule with comment period, we believed that the methodology described above was appropriate because it was consistent with the methodology described under section 1886(h)(3)(B) of the Act. This section specifies that, in order to arrive at the average PRA, or ''aggregate approved amount,'' the Secretary must multiply a hospital's PRA by the ''weighted average number of [FTE] residents * * * in the hospital's approved medical residency training programs *in that period*'' (emphasis added).

We also believed the methodology outlined above and in the August 29, 1997 rule was appropriate because it was consistent with the intent of the statute that, after October 1, 1997, direct GME payments should be based on a rolling average. Specifically, section 4623 of Public Law 106–33 provides that, ''For cost reporting periods beginning on or after October 1, 1997 * * * *the total number of full-time equivalent residents for determining a hospital's graduate medical education payment shall equal the average* of the actual full-time equivalent resident counts for the cost reporting period and the preceding two cost reporting periods' (emphasis added). Thus, while the statute does not include a specific methodology for computing the direct GME payments, it clearly indicates that the payment should be based on a 3-year average of the weighted number of residents, *not* the weighted number of residents in the current payment year cost reporting period.

As stated above, Congress provided that the direct GME payments should be made based on a 3-year average of the weighted number of residents in order to phase in the associated reduction in payment over a 3-year period for hospitals that are reducing the number of residents they are training. However, in steps 2 and 3 above, when combining a hospital's primary care PRA and nonprimary care PRA, we weight the respective PRAs by *current year* residents. This introduces the number of residents that a hospital is training in the *current cost reporting period* into the payment formula. A payment formula that incorporates the number of current year residents ''dilutes'' the effect of the rolling average as related to direct GME payments. After further consideration, we believe that, consistent with the statute, the formula should be based on rolling average counts of residents. We proposed an alternative methodology which would replace the current methodology in which the direct GME payment would be the sum of (a) the product of the primary care PRA and the primary care and obstetrics and gynecology rolling average, and (b) the product of the nonprimary care PRA and the nonprimary care rolling average. (This sum would then be multiplied by the Medicare patient load.) The new methodology would only be used for determining direct GME payments because there is no distinction between primary care and nonprimary care residents for IME payment purposes.

The new methodology is effective for cost reporting periods beginning on or after October 1, 2001. The methodology for determining a hospital's direct GME payment is as follows:

*Step 1.* Determine that the hospital's total unweighted FTE counts in the payment year cost reporting period and the prior two immediately preceding cost reporting periods for all residents in allopathic and osteopathic medicine do not exceed the hospital's FTE cap for these residents in accordance with § 413.86(g)(4). If the hospital's total unweighted FTE count in a cost reporting period exceeds its cap, the hospital's weighted FTE count, for primary care and obstetrics and gynecology residents and nonprimary care residents, respectively, will be reduced in the same proportion that the number of these FTE residents for that cost reporting period exceeds the unweighted FTE count in the cap. The proportional reduction is calculated *for primary care and obstetrics and gynecology residents and nonprimary care residents separately* in the following manner:

(FTE cap/unweighted total FTEs in the cost reporting period) × (weighted primary care and obstetrics and gynecology FTEs in the cost reporting period)

plus

(FTE cap/unweighted total FTEs in the cost reporting period) × (weighted nonprimary care FTEs in the cost reporting period).

Add the two products to determine the hospital's reduced cap.

*Step 2.* Determine the 3-year average of the weighted FTE count for primary care and obstetrics and gynecology residents in the payment year cost reporting period and the two immediately preceding cost reporting periods. Determine the 3-year average of the weighted FTE count for nonprimary care residents in the payment year cost reporting period and the two immediately preceding cost reporting periods.

*Step 3.* Determine the product of the primary care PRA and the primary care and obstetrics and gynecology 3-year average from step 2. Determine the product of the nonprimary care PRA and the nonprimary care 3-year average from step 2.

*Step 4.* Sum the products of step 3.

*Step 5.* Multiply the sum from step 4 by the hospital's Medicare patient load

for the cost reporting period to determine Medicare's direct GME payment to the hospital.

Existing § 413.86(g)(5) specifies that residents in new programs are excluded from the rolling average calculation for a period of years equal to the minimum accredited length for the type of program, and are added to the payment formula after applying the averaging rules. Accordingly, for hospitals that qualify for an adjustment to their FTE caps for residents training in new programs under § 413.86(g)(6), primary care and obstetrics and gynecology residents in new programs would be added to the quotient of the primary care and obstetrics and gynecology 3-year average, and nonprimary care residents in new programs would be added to the quotient of the nonprimary care 3-year average. The sums of the respective 3-year averages and new residents would then be multiplied by the respective PRAs.

The following example illustrates the determination of direct GME payment under the proposed rolling average methodology for an existing teaching hospital with no new programs:

*Example:* Assume a hospital with a cost reporting period ending September 30, 1996 (beginning October 1, 1995) had 100 unweighted FTE residents and 90 weighted FTE residents. The hospital's FTE cap is 100 unweighted residents.

*Step 1.* In its cost reporting period beginning in FY 2000, it had 100 unweighted residents and 90 weighted residents (50 primary care and 40 nonprimary care).

• The hospital had 90 unweighted residents and 85 weighted residents (50 primary care and 35 nonprimary care) for its cost reporting period beginning in FY 2001.

• In its cost reporting period beginning in FY 2002, the hospital had 80 unweighted residents and 80 weighted residents (50 primary care and 30 nonprimary care).

*Step 2.* The 3-year average of weighted primary care and obstetrics and gynecology residents is (50 +50 + 50)/3 = 50. The 3-year average of weighted nonprimary care residents is (40 + 35 + 30)/3 = 35.

*Step 3.* Primary care: $80,000 PRA × 50 weighted primary care and obstetrics and gynecology FTEs = $4,000,000. Nonprimary care: $78,000 × 35 weighted nonprimary care FTEs = $2,730,000.

*Step 4.* $4,000,000 + $2,730,000 = $6,730,000.

*Step 5.* If the hospital's Medicare patient load for the payment cost reporting period is .20, Medicare's direct GME payment would be $6,730,000 × .20 = $1,346,000.

Whether the proposed methodology results in a payment difference for a hospital is dependent upon whether or not the number and mix (primary care and nonprimary care) of FTEs changes in a 3-year period. If the number and mix of FTEs does not change in a 3-year period, there would be no difference in a direct GME payment amount derived using the proposed methodology versus the existing methodology. For example, if a hospital has 90 weighted FTEs (50 primary care and 40 nonprimary care) in the current year and the 2 previous years (using the PRAs and the Medicare patient load from the example above), the payment amounts derived from the existing methodology and the proposed methodology would be equal.

If the number and mix of FTEs varies from year to year, there will be a difference in the results of the two methodologies. In some instances the existing methodology would result in a higher payment, and in other instances the proposed methodology would result in a higher payment. In the example above, the hospital has reduced its number of weighted residents by 5 FTEs in FYs 2001 and 2002. Calculating this hospital's direct GME payment amount using the existing methodology (using the PRAs and the Medicare patient load from the example) would result in a payment of $1,347,250, which is $1,250 more than $1,346,000, the amount calculated in the example using the proposed methodology.

In a scenario where a hospital makes larger reductions to the number of FTEs, the proposed methodology may be more beneficial. For example, using the PRAs and the Medicare patient load from the example above, assume a hospital has 90 weighted FTEs (50 primary care and 40 nonprimary care) in FY 2000, 85 weighted FTEs (50 primary care and 35 nonprimary care) in FY 2001, and 70 weighted FTEs (35 primary care and 35 nonprimary care) in FY 2002. If the proposed methodology is used, the payment amount of $1,292,050 would be calculated, which is $1,666 more than $1,290,386, the amount calculated if the existing methodology is used.

We proposed to revise § 413.86(g)(4) to specify that, effective for cost reporting periods beginning on or after October 1, 2001, if the hospital's total unweighted FTE count in a cost reporting period exceeds its cap, the hospital's weighted FTE count, for primary care and obstetrics and gynecology residents and nonprimary care residents, respectively, will be reduced in the same proportion that the number of these FTE residents for that cost reporting period exceeds the unweighted FTE count in the cap. We also proposed to revise § 413.86(g)(5) to specify that, effective for cost reporting periods beginning on or after October 1, 2001, the direct GME payment will be calculated using two separate rolling averages, one for primary care and obstetrics and gynecology residents and one for nonprimary care residents.

*Comment:* Two commenters asked whether or not the proposed new methodology for calculating direct GME payment using two separate rolling averages for primary care and nonprimary care residents is truly an ''alternative,'' or, if finalized, would it replace the present methodology.

*Response:* The proposed new methodology would *replace* the existing rolling average methodology effective for cost reporting periods beginning on or after October 1, 2001 (the effective date of this final rule). Hospitals training both primary care and nonprimary care residents would determine two separate rolling average counts; one for primary care and one for nonprimary residents.

*Comment:* One commenter stated: ''although the new rolling average methodology is difficult and complex, its impact on GME programs is far from clear.'' The commenter asked how much change in resident number and mix is necessary before this new methodology has an effect on payment, and stated that more examples would be helpful in determining this effect. The commenter also expressed hope that, if this change is finalized, we will revisit this issue after implementation and fully examine and analyze its impact on teaching program payment.

*Response:* As we explained in the proposed rule, whether the new methodology results in a payment difference for a hospital is dependent upon whether or not the ratio of primary care to nonprimary care FTEs changes in a 3-year period. If the ratio of the FTEs does not change over the 3-year period, there would be no difference in a direct GME payment amount derived using the new methodology versus the existing methodology. In particular, there would be an increase in direct GME payment under the revised methodology, where a hospital's proportion of primary care residents to nonprimary care residents over the last 3 years is higher than the hospital's proportion of primary care residents to nonprimary care residents in the current year. As this new rolling average methodology is implemented, we intend to evaluate hospitals' direct GME payments to further analyze the impact of using this methodology.

*Comment:* One commenter asked how many hospitals would still be ''at risk''

for changes in payment because they retain different primary care and nonprimary care PRAs, given the implementation of the 85 percent floor.

*Response:* As described in the impact section of this final rule in Appendix A, we estimated that, of 1,231 teaching hospitals included in the analysis, approximately 562 hospitals have PRAs that will be increased to equal 85 percent of the national average PRA. This leaves 669 hospitals with PRAs that exceed the 85 percent floor. However, not all of these hospitals will be using the new methodology because not all of them have both primary care and nonprimary care PRAs.

*Comment:* One commenter noted that, in order to implement the new rolling average methodology, significant changes must be made to Worksheet E, Part A, the worksheet on the Medicare cost report used for calculating a hospital's IME adjustment. The commenter also stated that past cost reports using the current cost reporting forms would have to be reopened.

*Response:* As we explained in the preamble to the proposed rule and above in this final rule, we have decided to institute a separate rolling average for primary care and nonprimary care residents due to an issue with respect to the current payment methodology for *direct GME only*. That is, when combining a hospital's primary care PRA and nonprimary care PRA on Worksheet E–3, Part IV of the Medicare cost report, we currently weight the respective PRAs by *current* year residents. As a result, although Congress provided that the direct GME payments should be made based on a 3-year rolling average count of weighted residents, the current methodology introduces the number of residents that a hospital is training in the *current cost reporting period* into the payment formula. A payment formula that incorporates the number of current year residents ''dilutes'' the effect of the rolling average as related to direct GME payments. However, in regard to the IME payments, we also noted that, although they are also based on a rolling average, no change in the existing methodology is needed because there is no distinction between primary care and nonprimary care residents for IME payment purposes. Therefore, while two separate rolling averages will be used for direct GME payments (one for primary care and one for nonprimary care), a single rolling average will continue to be used for IME payments under the existing methodology. We will make the necessary changes to the Medicare cost report on Worksheet E–3, Part IV, which is used for calculating a hospital's direct GME payment, to accommodate two separate rolling average calculations.

The commenter also stated that affected cost reports in which the current rolling average methodology was used would need to be reopened. However, the effective date of this change in the methodology is *prospective,* and will only affect cost reporting periods beginning on or after October 1, 2001. We will not be reopening past cost reports to change direct GME payment because of the new methodology.

*Comment:* One commenter indicated that the separation of the 3-year rolling average between primary care and nonprimary care FTEs will be difficult because the prior year FTEs were not separated into primary care and nonprimary care FTEs. The commenter asked how a provider could obtain the information from prior years if the same methodology was not used.

*Response:* We do not believe it will be difficult for a hospital to obtain the weighted FTE counts of its primary care and nonprimary care residents separately. This is because, in fact, although the rolling average was computed based on total residents, there are lines on Worksheet E–3, Part IV (lines 3.07 and 3.08) in which the current year weighted count of primary care and nonprimary care residents are reported separately. Therefore, the hospital and the fiscal intermediary can easily refer to these lines on prior year cost reports to determine a 3-year average for primary care and nonprimary care residents, respectively.

4. Counting Research Time as Direct and Indirect GME Costs (§§ 412.105 and 413.86)

It has come to our attention that there appears to be some confusion in the provider community as to whether the time that residents spend performing research is countable for the purposes of direct and indirect GME reimbursement. Although we did not propose to make any policy changes in the May 4 proposed rule, we did reiterate our longstanding policy regarding time that residents spend in research and proposed to incorporate this policy in the IME regulations.

Section 413.86(f) specifies that, for the purposes of determining the total number of FTE residents for the direct GME payment, residents in an approved program working in all areas of the hospital complex may be counted. Accordingly, the time the residents spend performing research as part of an approved program anywhere in the hospital complex may be counted for direct GME payment purposes. If the requirements listed at §§ 413.86(f)(3) and (f)(4) are met, a hospital may also count the time residents spend doing research in nonhospital settings for direct GME payment.

For purposes of determining the IME payment, § 412.105(f)(1)(ii) specifies that the time residents spend training in parts of the hospital that are subject to the inpatient prospective payment system, in the outpatient departments, or (effective on or after October 1, 1997, in accordance with § 413.86(f)(3) or (f)(4), as applicable) in nonhospital settings, may be counted. Section 2405.3.F.2. of the Provider Reimbursement Manual (PRM) further states that a resident must not be counted for the IME adjustment if the resident is engaged exclusively in research. Resident time spent ''exclusively'' in research means that the research is not associated with the treatment or diagnosis of a particular patient of the hospital. Therefore, although the research component may be part of an approved program, *the time that residents devote specifically to performing research that is not related to delivering patient care,* whether it occurs in the hospital complex or in non-hospital settings, *may not be counted for IME payment purposes.* ''Exclusively research'' time is not allowable for IME purposes irrespective of whether the resident is engaged only in research or spends only part of his or her time on research. Accordingly, time spent exclusively in research over the course of a program year should be subtracted from the total FTE count for that year. For example, if a resident is required to spend 3 months in a particular program year engaged in research activities unrelated to delivering patient care, that amount of time should be subtracted from the total FTE count, whether or not the research time is fulfilled in one block of time, or is distributed throughout the training year.

We note that in order to count residents for both direct GME and IME payment purposes, the residents' training must be part of an approved program. *This applies whether or not the residents are doing work that is clinical in nature.* There are situations where residents have completed their residency program requirements but remain for an additional period of time to continue their training (that is, to conduct research or other activities) outside the context of a formally organized approved program. As we explained in the September 29, 1989 final rule (54 FR 40306), these residents are *not* countable for direct GME or IME

reimbursement. Rather, patient care services provided by these residents should be paid as Part B services.

We proposed to amend § 412.105(f)(1)(iii) to add a paragraph (B) to incorporate language that reflects this policy.

We received several comments disagreeing with our clarification to longstanding policy on whether the time that residents spend performing research may be included in the FTE count for the purpose of determining direct and indirect GME reimbursement.

*Comment:* One commenter stated that the proposed revised IME regulations at § 412.105 do not mention any requirement that residents counted for purposes of the IME adjustment and assigned to a hospital's inpatient prospective payment system or outpatient area be involved in ''patient care activities.'' Instead, that requirement is only mentioned with reference to residents assigned to nonprovider settings. Therefore, the commenter believed that a patient care requirement in reference to counting residents in nonprovider settings implies the exclusion of the same requirement when counting residents in the hospital (specifically as it applies to counting research time for IME purposes).

*Response:* The clarification in the proposed rule addresses our longstanding interpretation of existing regulations and reflects longstanding general Medicare reimbursement principles. Under general Medicare reimbursement principles, as reflected in § 413.9, costs incurred by a hospital generally must be related to patient care in order to be reimbursed by Medicare.

The purpose of the IME payments is to address the additional costs that hospitals incur in treating patients. In our May 6, 1986 interim final rule (51 FR 16775), we stated: ''Section 1886(d)(5)(B) of the Act provides that prospective payment hospitals receive an additional payment for the indirect costs of medical education computed in the same manner as the adjustments for those costs under regulations in effect as of January 1, 1983. Under those regulations, we provided that the indirect costs of medical education incurred by teaching hospitals are the increased operating costs (*that is, patient care costs*) that are associated with approved intern and resident programs'' (emphasis added). In addition, in our September 29, 1989 final rule (54 FR 40286), we specifically state: ''As used in section 1886(d)(5)(B) of the Act, 'indirect medical education' means those additional costs (*that is, patient care costs*) incurred by hospitals with graduate medical education programs. The indirect costs of medical education might, for example, include added costs resulting from an increased number of tests ordered by residents as compared to the number of tests normally ordered by more experienced physicians'' (emphasis added).

Thus, payments for IME address the additional operating costs that teaching hospitals incur in furnishing patient care. Accordingly, consistent with the purpose of IME payments and general Medicare reimbursement principles, in determining the FTE count with respect to the IME adjustment, it has been our longstanding policy that we do not include residents to the extent that the residents are not involved in furnishing patient care but are instead engaged exclusively in research.

*Comment:* One commenter disagreed with our use of the Provider Reimbursement Manual (PRM), section 2405.3.F.2, in support of our policy on excluding residents from the IME count if the resident is ''engaged exclusively in research.'' The commenter stated that the reference to exclusion from the resident count for residents engaged ''exclusively in research'' must be read in the context of the Manual provision, and not in a regulatory vacuum. The commenter believed that PRM section 2405.3.F.2 is addressing situations outside of the traditional residency program—where the resident time at issue is not part of an approved medical education program. The commenter believed that the phrase ''engaged exclusively in research'' refers to persons who are research scientists and not engaged in research as part of a clinical residency program.

In addition, this commenter stated that our interpretation of the word ''exclusively'' in this context is not reasonable and is contrary to the clear meaning of the term. The commenter argued that our interpretation practically eliminates the word ''exclusively,'' effectively saying that a resident is ''exclusively engaged in research'' if that resident participates in any research at all.

*Response:* Section 2405.3.F.2 of the PRM (published in August 1988) was written to address ''Questionable situations'' for the IME FTE count. Indeed, in the introductory paragraph in this section we state: ''It is recognized that situations arise in which it may be unclear whether an individual is counted as an intern or resident in an approved program for the purposes of the indirect medical education adjustment.'' Thus, the point of section 2405.3.F.2 of the PRM was to clarify situations for counting resident FTEs in approved programs for IME purposes. As the commenter suggested, *some* of the situations listed under this section address situations where the resident FTE time at issue is not part of the approved medical education program (for example, that a resident must not be counted for the IME adjustment if ''the individual's services in provider settings are payable as physician services (situations in which it is clear that the otherwise eligible resident is 'moonlighting')''.) (Section 2405.3.F.2. of the PRM). However, this section in the PRM was written to clarify counting rules for IME purposes in various situations. In addition to clarifying situations where resident time is spent in an unapproved program, this section in the PRM certainly also clarifies the rules for determining resident time spent in an approved program—such as time the resident is ''engaged exclusively in research'' (as cited in the proposed rule) and that ''any portion of the individual's salary is subject to reasonable compensation equivalency limits.'' (Section 2405.3.F.2. of the PRM)

Therefore, we do not agree with the commenter that we have read this manual provision in a ''regulatory vacuum''. The phrase ''engaged exclusively in research'' is *not* meant only to refer to persons who are research scientists and not engaged in research as part of an approved clinical residency program, since as explained above, there is *nothing* in the manual provision that limits the research provision to research performed outside of an approved program.

In the proposed rule, we stated that resident time spent ''exclusively'' in research ''means that the research is not associated with the treatment or diagnosis of a particular patient of the hospital.'' (66 FR 22700). The commenter argued that this interpretation of the word ''exclusively'' in the context of the manual provision is unreasonable and contrary to the clear meaning of the term, that under our policy, a resident would be ''engaged exclusively in research'' if that resident participates in any research at all. We do not agree.

Resident time spent ''engaged exclusively in research'' means time *not* associated with the care of a particular patient (see proposed § 412.105(f)(1)(iii)(B)); thus, *any* research time that *is* associated with the treatment or diagnosis of a particular hospital patient or, effective on or after October 1, 1997, of patients in nonhospital settings, that is, usual patient care, is countable for IME payment purposes. We note that this distinction between activities that are

''usual patient care'' and research activities is, again, longstanding Medicare policy. In April 1975, at section 500 of the PRM, we stated the principle that ''Costs incurred for research purposes, over and above usual patient care, are not included as allowable costs.'' Indeed, since the inception of Medicare, we have distinguished between activities that are ''usual patient care'' and activities that are outside this scope, such as research activities.

*Comment:* One commenter stated that ''by its very nature as a regression analysis, or statistical measure, the IME formula is not intended to be dependent on 'the treatment or diagnosis of a particular patient of the hospital.' '' Another commenter stated: ''our understanding of the development of the adjustment is that statistical analyses showed that the use of an intern/resident-to-bed ratio (IRB) was (and continues to be) the best proxy for the patient care cost differences between teaching and non-teaching hospitals. Given that the IRB is only a proxy, the relevance of a requirement that residents themselves must be engaged in activities related to patient care in order for their training time to be counted in the IRB is unclear.''

*Response:* Generally, the statistical analyses used in the development of the statutory IME adjustment measured the differences between teaching and nonteaching hospitals with respect to the additional costs associated with patient care. Inpatient hospital care that involves the use of residents is costlier than inpatient hospital care that does not involve the use of residents. As the comments and the statute reflect, the hospital's ratio of interns and residents to beds is one factor in measuring the additional costs that a hospital incurs due to the use of residents in furnishing patient care. While a resident is engaged exclusively in research, the hospital is not incurring additional patient care costs due to that resident. Accordingly, we believe that the measure of additional patient care costs is more accurate if it excludes residents engaged exclusively in research.

Suppose, for example, that a teaching hospital has a total of 20 FTE residents training in prospective payment system sections of the hospital who are all involved in furnishing patient care. The amount of the IME payment to the hospital would reflect 20 FTE residents, reflecting the additional operating costs arising from the use of 20 FTE residents in furnishing patient care. Now suppose that the same hospital has the same 20 residents involved in furnishing patient care but it also has 4 additional FTE residents engaged exclusively in research. The 4 residents engaged exclusively in research do not contribute to higher operating costs and, therefore, as our longstanding policy reflects, we believe it is appropriate not to count them for purposes of the IME adjustment. Thus, in both situations, the hospital's FTE count for purposes of IME is 20. If we did make higher payments in the second situation, then the hospital would receive higher payments even though the hospital did not incur higher patient care costs.

*Comment:* One commenter stated that our regulations at § 413.86(e)(1)(i)(B) clearly allow research time to be counted for direct GME purposes. This commenter asserted that ''it cannot be reasonably argued that research time should be counted differently for IME than direct GME based on a new, very specific definition of patient care that applies solely to IME''. Another commenter stated the proposed rule is ''unduly burdensome'' by requiring hospitals to maintain different counts for direct GME and IME based on research activity or rotations. A third commenter stated that there is an alternative to distinguishing between direct GME and IME as it relates to research—''lawyers, often when faced with conflicting sections of the law, attempt to reconcile a common policy out of these conflicts, rather than further complicating things. You could do the same here.''

*Response:* As we have stated above and in the proposed rule, the clarification we made concerning the counting of FTEs for research time related to the diagnosis and treatment of a particular patient for IME purposes is *longstanding* Medicare reimbursement policy. We were *not* proposing a change in Medicare policy.

We are not introducing unnecessary complexity to the direct and indirect medical education counts, since it has *always* been Medicare policy to require the hospital to distinguish between time spent by residents involved exclusively in research and time spent on patient care. Further, the IME and direct GME FTE counts have and will continue to differ for several reasons. Hospitals have always been able to count residents in all areas of the hospital complex for direct GME but cannot count residents working in units exempt from the prospective payment system for IME. In addition, each resident included in the hospital's direct GME FTE count is counted as 0.5 FTE if they have trained beyond the number of years required to become eligible in the specialty in which they first began training. These same residents are counted as 1.0 FTE in the hospital's IME FTE count. We reiterate that we are *not* making a change in policy, but merely clarifying our policy with respect to counting residents involved in GME.

With respect to research, our policies for direct GME payment are consistent with our policies for IME payment. In both contexts, we do not pay for the costs of time spent by residents engaged exclusively in research. In making payments for IME and direct GME for a given year, it is true that we treat research *time* differently for purposes of the IME FTE count and the direct GME FTE count, but, as explained below, this difference arises from the direct GME base year methodology and does not mean that we pay for research *costs* in the direct GME payment.

In the September 29, 1989 final rule implementing the direct GME base year payment methodology, we described the calculation of the per resident amounts (PRAs). Each hospital's PRA is determined by taking the hospital's total allowable graduate medical education costs (which do not include costs allocated to the nursery cost center, *research*, and other nonreimbursable cost centers) in a base year and dividing the costs by the number of FTE residents working in all areas of the hospital complex in the base year. (§ 413.86(e)(1)(i)) In the case of research and other nonreimbursable cost centers, costs were excluded from the PRA calculation because they were nonreimbursable in the base year, consistent with longstanding Medicare policy on Medicare cost reimbursement to teaching hospitals. Ideally, residents engaged exclusively in research would also have been excluded from the base year FTE count used in the PRA calculation. However, for a number of hospitals, the FTE count for the base year *did include* residents engaged exclusively in research because the 1984 base year information available when the PRAs were determined in 1990 did not distinguish between residents involved in furnishing patient care services and residents exclusively engaged in research.

In order to avoid disadvantaging these hospitals, in making direct GME payments for a given year, we have included and continue to include residents exclusively engaged in research in the direct GME FTE count both in the base year PRA calculation and in the FTE count in subsequent payment year calculations. Doing so ''offsets'' the effects of the inclusion of such residents in the direct GME base year FTE count (no such ''offset'' is necessary in the context of IME). However, because the *costs* were

excluded in calculating the PRA, the end result is that the direct GME payment does *not* encompass the costs of residents engaged exclusively in research. Therefore, as with the IME payment, Medicare is not and has not been reimbursing teaching hospitals under direct GME for costs the hospital incurs associated with resident time spent in research unrelated to usual patient care.

*Comment:* One commenter stated that our policy on counting research time is well stated and clear. However, this commenter stated that there is much research that is done outside any funding source, but is an essential part of the resident's training. The commenter further stated that the hospital does assume these costs, and they are not part of the direct GME component, and so represent valid hospital expenditures due to the presence of residents.

*Response:* We certainly acknowledge that hospitals incur research costs associated with the training of interns and residents. We understand that many specialties require a research component to be completed as part of the specialties' board eligibility requirements. The question as far as IME payments are concerned is whether or not the research is associated with the diagnosis and treatment of a particular patient. As explained above, teaching hospitals receive Medicare IME payments to pay hospitals for Medicare's share of the additional costs these hospitals incur associated with patient care costs; if the research is not associated with usual patient care costs, then the resident research time is not reimbursable.

*Comment:* Two commenters stated that they are concerned that clarifications on the exclusion of resident FTEs from the IME payment for trainees engaged in activities that are purely research would be extended to include those individuals in an approved program that requires research activities at the same time as the delivery of patient care.

*Response:* As stated above, where the residents are engaged exclusively in research, it is appropriate to exclude that time from the IME payment calculation. However, consistent with longstanding policy, in the situation where residents are in an approved program participating in research activities that are associated with the diagnosis and treatment of a particular patient, we believe it is appropriate to include that time in the IME payment calculation.

5. Temporary Adjustments to FTE Cap to Reflect Residents Affected by Residency Program Closure

In the July 30, 1999 hospital inpatient prospective payment system final rule (64 FR 41522), we indicated that we would allow a temporary adjustment to a hospital's FTE resident cap under limited circumstances and if certain criteria are met when a hospital assumes the training of additional residents because of another hospital's closure. We made this change because hospitals had indicated a reluctance to accept additional residents from a closed hospital without a temporary adjustment to their caps. When we proposed this change 2 years ago, we received several comments suggesting that we include lost accreditation of a program (that is, a program's closure) in the temporary adjustment policy. We explained in our response to these comments (64 FR 41522) that we did not believe it was appropriate to expand our policy to cover any acts other than a hospital's closure. We made this decision because, unless the hospital terminates its Medicare agreement, the hospital would retain its statutory FTE cap and could affiliate with other hospitals to enable the residents to finish their training.

It has come to our attention that, despite a hospital's ability to affiliate with other hospitals when it shuts down a residency program, some hospitals for various reasons do not affiliate before their programs close, particularly when the program closes abruptly towards the end of the program year (the deadline to submit Medicare affiliation agreements is July 1 of the upcoming program year). Therefore, in the May 4 proposed rule, we proposed that if a hospital that closes its residency training program agrees to temporarily reduce its FTE cap, another hospital(s) may receive a temporary adjustment to its FTE cap to reflect residents added because of the closure of the former hospital's residency training program. For purposes of this policy on closed programs, we proposed to define ''closure of a hospital residency training program'' as when the hospital ceases to offer training for residents in a particular approved medical residency training program (proposed § 413.86(g)(8)(i)(B)). The methodology for adjusting the caps for the ''receiving hospital'' and the ''hospital that closed its program'' is described below.

a. *Receiving hospital.* We proposed that a hospital(s) may receive a temporary adjustment to its (or their) FTE cap to reflect residents added because of the closure of another hospital's residency training program if—

- The hospital is training additional residents from the residency training program of a hospital that closed its program; and
- No later that 60 days after the hospital begins to train the residents, the hospital submits to its fiscal intermediary a request for a temporary adjustment to its FTE cap, documents that the hospital is eligible for this temporary adjustment by identifying the residents who have come from another hospital's closed program and have caused the hospital to exceed its cap, specifies the length of time the adjustment is needed, and submits to its fiscal intermediary a copy of the FTE cap reduction statement by the hospital closing the program, as specified in paragraph (g)(8)(iii)(B)(2).

In general, the proposed temporary adjustment criteria are reflective of the temporary adjustment criteria for taking on the training of displaced residents from closed hospitals. We note that we proposed that more than one hospital would be eligible to apply for the temporary adjustment, because residents from one closed program may go to different hospitals, or they may finish their training at more than one hospital. We also noted that only to the extent a hospital would exceed its FTE cap by training displaced residents would it be eligible for the temporary adjustment.

Finally, we proposed that hospitals that meet the proposed criteria would be eligible to receive temporary adjustments (for cost reporting periods beginning on or after October 1, 2001, for direct GME and with discharges beginning on or after October 1, 2001 for IME) for training the displaced residents from programs that closed even before the effective date of this policy. We mentioned this because hospitals may have closed programs in the recent past and the residents from the closed programs may not have completed their training as of the effective date of this policy. For instance, if a 5-year residency program, such as surgery, closed on July 1, 1997, the 5th program year residents may still be training during this residency year (2001). We proposed that if both the receiving hospital(s) and the hospital that closed the program in this example follow the criteria described in this preamble, the receiving hospital may receive a temporary adjustment to its FTE cap for 9 months (October 1, 2001 through June 30, 2002) to accommodate the 5th year surgery residents. However, we noted that hospitals would not be eligible to receive a temporary adjustment for

training the residents until the effective date of this rule (that is, October 1, 2001).

b. *Hospital that closed its program(s).* We proposed that a hospital that agrees to train residents who have been displaced by the closure of another hospital's program may receive a temporary FTE cap adjustment only if the hospital with the closed program(s)—

- Temporarily reduces its FTE cap by the number of FTE residents in each program year training in the program at the time of the program s closure. The yearly reduction would be determined by deducting the number of those residents who would have been training in the program year during each year had the program not closed; and
- No later than 60 days after the residents who were in the closed program begin training at another hospital, submits to its fiscal intermediary a statement signed and dated by its representative that specifies that it agrees to the temporary reduction in its FTE cap to allow the hospital training the displaced residents to obtain a temporary adjustment to its cap; identifies the residents who were training at the time of the program's closure; identifies the hospitals to which the residents are transferring once the program closes; and specifies the reduction for the applicable program years.

Unlike the closed hospital policy at § 413.86(g)(8), we proposed under this closed program policy (which we proposed to amend § 413.86(g)(8) to include), that in order for the receiving hospital(s) to qualify for a temporary adjustment to its FTE cap, the hospitals that are closing their programs would need to reduce their FTE cap for the duration of time the displaced residents would need to finish their training. We proposed this change because, as explained below, the hospital that closes the program still has the FTE slots in its cap, even if the hospital chooses not to fill the slots with residents. We believe it is inappropriate to allow an increase to the receiving hospital's cap without an attendant temporary decrease to the cap of the hospital with the closed program, even if the increase is only temporary. We noted that even under the proposed closed program policy, the hospital that closes its program may choose instead to affiliate with another hospital by July 1 of the next residency year so that the residents can more easily finish their training.

We proposed that the cap reduction for the hospital with the closed program would be based on the number of FTE residents in each program year who were in the program at the program's closure, and who began training at another hospital, rather than the count of residents each year at the hospital(s) receiving the temporary adjustment(s). We believe it would be too burdensome administratively to require the hospital closing the program to keep track of the status of the residents when they are training at other hospitals. For instance, Joe Smith, a resident who is a PGY 1 when Hospital X closes its pathology residency program, may then finish his training at Hospital Y. The resident trains for one year at Hospital Y as a PGY 2, but decides to drop out of the program before finishing. It would be burdensome to require Hospital X to keep track of Joe Smith's status while he is training at Hospital Y for purposes of the reduction in Hospital X's cap. Therefore, we proposed to ''freeze'' the basis for the reduction of the FTE cap of the hospital that closed the program based on the count and status of the residents when the hospital closes the program.

*Example:* Hospital A, which has a direct GME FTE cap of 20 FTEs and an IME FTE cap of 18 FTEs, is experiencing financial difficulties and decides to close down its internal medicine residency training program effective June 30, 2002. As of June 30, 2002, Hospital A is training 2 PGY 1s, 4 PGY 2s, and 6 PGY 3s in its internal medicine program. Hospitals B, C, and D take on the training of the displaced residents. These hospitals are eligible to receive temporary adjustments to their FTE caps if they follow the proposed criteria stated above. In order for Hospitals B, C, and D to receive the temporary adjustments, however, Hospital A must agree to reduce its FTE cap. According to the proposed criteria stated above, Hospital A's reduction would be:

*July 1, 2002 through June 30, 2003*

Direct GME FTE cap: 14 FTEs, (20 FTEs cap—2 PGY 2s–4 PGY 3s)
IME FTE cap: 12 FTEs (18 FTEs–2 PGY 2s–4 PGY 3s)

We note that no downward adjustment for the 6 PGY 3s for either cap is necessary since these residents will have completed their training in that program by the July 1, 2000 through June 30, 2003 program year.

*July 1, 2003 through June 30, 2004*

Direct GME FTE cap: 18 FTEs (20 FTEs cap—2 PGY 3s)
IME FTE cap: 16 FTEs (18 FTEs cap—2 PGY 3s)

*July 1, 2004 through June 30, 2005*

Direct GME FTE cap: 20 FTEs
IME FTE cap: 18 FTEs

We also proposed to revise § 412.105(f)(1)(ix) to make the provision relating to the adjustment to FTE caps to reflect residents affected by closure of hospitals' medical residency training programs applicable to determining the IME payment.

*Comment:* Several commenters commended us for extending payment of IME and direct GME to situations of program closure, explaining that this change will help stabilize the GME system and ensure that residents can continue their training without imposing financial hardship on the institutions that accept them into their programs. One commenter also noted that the tradeoff in the FTE resident cap between a hospital closing its residency program and the hospital receiving the displaced residents seems reasonable. Another commenter stated that while the proposed rule more than adequately described the requirements and procedures for allowing a hospital to receive a temporary adjustment to its FTE caps to reflect residents added because of the closure of another hospital's program, the receiving hospital is penalized because the 3-year rolling average applies to these residents. The commenter noted that, in the first and second year, the receiving hospital will be paid one third and two thirds of the costs of these displaced FTE residents because of the rolling average, although the receiving hospital is paying for these FTE residents at full cost. The commenter suggested that a temporary exception should be granted to receiving hospitals from the 3-year rolling average in the same manner as residents in new programs under § 413.86(g)(5) are excluded from the rolling average. The commenter also asked that temporary relief should be granted in the IME adjustment with regard to the application of the resident-to-bed ratio cap, wherein the relief from this cap should be an adjustment to the prior year's resident FTEs equal to the increase in the current year's FTEs which is attributable to the transferred residents.

*Response:* We understand the commenter's concern regarding the inclusion of the resident FTEs displaced by the closure of another hospital's program in the receiving hospital's rolling average count of residents, for both direct GME and IME purposes. In addition, we believe that a similar concern also exists in regard to the inclusion of residents in the receiving hospital's rolling average calculation for residents displaced by the closure of another hospital. Therefore, we are revising proposed § 412.105(f)(1)(v) for IME and adding a paragraph (vi) to proposed § 413.86(g)(5) for direct GME to specify that FTE residents that are displaced by the closure of either another hospital or another hospital's program are added after the calculation of the rolling average for the receiving

hospital for the duration of time that those displaced FTE residents are training at the receiving hospital.

In regard to providing temporary relief to the receiving hospital's IME resident-to-bed ratio cap for the displaced residents, while we understand the commenter's concern about this issue as well, at this time we have decided not to allow the exclusion of these displaced residents in applying the resident-to-bed ratio cap. Under existing IME policy, the receiving hospital may be held to a lower cap in the first year of training the displaced residents. However, the receiving hospital may benefit from the higher cap in the year following the final year of the displaced residents' training. Effective in the first year that the receiving hospital takes on the displaced residents, it will be capped by the prior year's lower resident-to-bed ratio because the displaced residents will not be included in the prior year FTE count. However, an increase in the current year's ratio will establish a higher cap for the following year. Furthermore, in the last year that the receiving hospital is training the displaced residents, a higher cap will be established for the following year in which all the displaced residents will have left the hospital since they have completed their training. Therefore, we believe it is unnecessary to exclude displaced residents in applying the resident-to-bed ratio cap. While we are not making any changes to address this issue at this time, we will consider suggestions for possible changes in the future, if warranted.

*Comment:* One commenter stated that it is unclear at what rate the payments for IME and direct GME will be made for the hospital receiving the displaced residents. The commenter asked if Medicare would pay that hospital at the same rate that the hospital with the closed program was paid for its residents, or would the receiving hospital receive Medicare payment at the same rate it currently is paid.

*Response:* The receiving hospital will receive payment for the displaced residents using its own rates—that is, the same rates as those used for residents in its own programs. The receiving hospital will use its own bed count for IME payment purposes, and its own PRA and Medicare patient load for direct GME payment purposes.

*Comment:* One commenter stated that, although the commenter supports the proposal for allowing temporary adjustments for residents coming from a closed program, the commenter believed that a mechanism should be established to ''permanently preserve resident positions, as opposed to individual residents,'' so long as there is no increase in the total number of FTE residents for which Medicare payment is made.

*Response:* In proposing § 413.86(g)(8)(iii), which allows a hospital to receive a temporary adjustment to its FTE caps to reflect residents added because of the closure of another hospital's program, we have attempted to make these regulations consistent with the existing regulations at § 413.86(g)(8). These existing regulations allow a hospital to receive a temporary adjustment to its FTE caps to reflect residents added because of the closure of another hospital. Therefore, because the regulations only allow for a temporary cap adjustment in situations involving hospital closure, we believe that it is appropriate to only allow for a temporary adjustment in situations involving program closure, as well.

6. Conforming Change to Regulations Governing Payment to Federally Qualified Health Centers (§ 405.2468(f))

We have discovered a technical error in the regulations at § 405.2468(f) regarding payment to federally qualified health centers (FQHCs) and rural health centers (RHCs) for the costs of graduate medical education. Specifically, § 405.2468(f)(6)(ii)(D) provides that ''The costs associated with activities described in § 413.85(d) of this chapter'' are not allowable graduate medical education costs. We recently amended § 413.85 in a final rule (66 FR 3358, January 12, 2001) regarding Medicare pass-through payment for approved nursing and allied health education programs. However, we inadvertently did not make a conforming change to § 405.2468(f)(6)(ii)(D). Section 405.2468(f)(6)(ii)(D) should read ''The costs associated with activities described in § 413.85(h) of this chapter.'' We proposed to revise § 405.2468(f)(6)(ii)(D) to reflect this change.

7. Provisions of the August 1, 2000 Interim Final Rule With Comment Period

The following provisions were included in the August 1, 2000 interim final rule with comment period. We are presenting a discussion of these provisions here in order to respond to the public comments received on the provisions and to finalize the rule.

Section 1886(h) of the Act, as revised by Public Law 105–33, caps the number of residents a hospital may count for direct GME and IME. In general, the total number of residents in the fields of allopathic or osteopathic medicine in a hospital may not exceed the number of such FTE residents in the hospital with respect to the hospital's most recent cost reporting period ending on or before December 31, 1996. In the regulations we published on August 29, 1997 (62 FR 46003), May 12, 1998 (63 FR 26327), July 31, 1998 (63 FR 40986), and July 30, 1999 (64 FR 41517), we established special rules for adjusting the FTE resident caps for indirect and direct GME for new medical residency programs. Public Law 106–113 further revised sections 1886(d) and 1886(h) of the Act to allow a hospital's caps to be adjusted if certain additional criteria are met.

a. Counting Primary Care Residents on Certain Approved Leaves of Absence in Base-Year FTE Count (Section 407(a)(1) of Public Law 106–113 and New 42 CFR 412.105(f)(1)(xi) and 413.86(g)(9))

The limit that was placed on the number of residents that a hospital may count for purposes of direct GME and IME is based on the number of residents in the hospital's most recent cost reporting period ending on or before December 31, 1996. In the situation where a primary care resident was previously training in a hospital's residency program, but was on an approved leave of absence during the hospital's most recent cost reporting period ending on or before December 31, 1996, the hospital's FTE cap may be lower than it would have been had the resident not been on an approved leave of absence. Section 407(a) of Public Law 106–113 amended section 1886(h)(4)(F) of the Act to direct the Secretary to count an individual for purposes of determining a hospital's FTE cap, to the extent that the individual would have been counted as a primary care resident for purposes of the FTE cap but for the fact that the individual was on maternity or disability leave or a similar approved leave of absence.

The statute allows a hospital to receive an adjustment for those residents to its individual FTE cap of up to three additional FTE residents. We provided that, in order for a hospital to receive this adjustment, the leave of absence must have been approved by the residency program director to allow the residents to be absent from the program and return to the program after the absence. We required that no later than 6 months after the date of publication of this interim final rule, the hospital must submit a request to the fiscal intermediary for an adjustment to its FTE cap and must provide contemporaneous documentation of the approval of the leave of absence by the residency program director, specific to

each additional resident that is to be counted for purposes of the adjustment. For example, a letter to the resident by the residency program director before the resident takes the leave would be sufficient documentation of prior approval of the leave of absence.

Under section 407(a)(3) of Public Law 106–113, this provision is effective for direct GME FTE counts with cost reporting periods beginning on or after November 29, 1999, and for IME FTE counts, with discharges occurring in cost reporting periods beginning on or after November 29, 1999.

We added §§ 412.105(f)(1)(xi) and 413.86(g)(9) to our regulations to incorporate the provisions of section 407(a) of Public Law 106–113.

We received one comment concerning section 407(a)(1) of Public Law 106–113, as implemented at §§ 412.105(f)(1)(xi) and 413.86(g)(9), concerning the counting of primary care residents in certain approved leaves of absence in base-year FTE counts.

*Comment:* One commenter asked us to consider allowing hospitals to count FTE residents for residents who had been training in an approved residency program at a hospital but then left the hospital during the 1996 base-year and never returned. The commenter stated that the FTE slot in which the ''abandoning'' resident vacated sometime in 1996 was filled by another resident in 1997 and thereafter, but the hospital has never received any direct or indirect GME payment for this FTE slot.

*Response:* Section 407(a) of Public Law 106–113 amended section 1886(h)(4)(F) of the Act to direct the Secretary to count an individual for purposes of determining a hospital's FTE cap to the extent that the individual would have been counted as a primary care resident for purposes of the FTE cap but for the fact that the individual ''was on maternity or disability leave or a similar approved leave of absence.'' We believe that this provision was *not* intended to apply to residents who leave the program in the base-year and never return. The statutory language is quite clear that in order for a hospital to count residents in this provision, the resident must have been on an ''approved leave of absence.'' A ''leave of absence'' necessarily translates to a resident being away and then *returning* to the hospital at which the resident had been training.

b. Adjustments to the FTE Cap for Rural Hospitals (Section 407(b)(1) of Public Law 106–113 and 42 CFR 412.105(f)(l)(iv) and 413.86(g)(4))

Public Law 105–33 included several provisions with the intent of encouraging physician training and practice in rural areas. Section 1886(h)(4)(H)(i) of the Act, as added by section 4623 of Public Law 105–33, directed the Secretary, in promulgating rules for the purpose of the FTE cap, to give special consideration to facilities that meet the needs of underserved rural areas. Consistent with the intent of this provision, section 407(b) of Public Law 106–113 provides a 30-percent expansion of a rural hospital's direct and indirect FTE count for purposes of establishing the hospital's individual FTE cap. Specifically, section 407(b) provided that, effective for direct GME with cost reporting periods beginning on or after April 1, 2000, and for IME, with discharges occurring on or after April 1, 2000, the FTE count may equal 130 percent of the number of unweighted residents the rural hospital counted in its most recent cost reporting period ending on or before December 31, 1996.

For example, if a hospital located in a rural area had 10 unweighted FTEs for its count for both direct GME and IME in its most recent cost reporting period ending on or before December 31, 1996, under this new provision the hospital would have a FTE cap of 13 unweighted FTEs, instead of 10 unweighted FTEs, because the hospital is located in a rural area. The revised FTE cap is equal to 130 percent of the number of unweighted residents in its most recent cost reporting period ending on or before December 31, 1996. The rural hospital's new FTE cap, effective April 1, 2000, is now 13 FTEs. However, if a hospital located in a rural area had zero unweighted FTEs for its count for both direct GME and IME in its most recent cost reporting period ending on or before December 31, 1996, under this new provision, this hospital would receive no adjustment to its FTE cap (130 percent of zero is zero FTEs).

We incorporated the provision of section 407(b) of Public Law 106–113 in §§ 412.105(f)(1)(iv) and 413.86(g)(4). We did not receive any comments on this provision.

c. Rural Track FTE Limitation for Purposes of GME and IME for Urban Hospitals that Establish Separately Accredited Approved Medical Programs in a Rural Area (Section 407(c) of Public Law 106–113 and new 42 CFR 412.105(f)(1)(x) and 413.86(g)(11))

In order to encourage the training of physicians in rural areas, section 407(c) of Public Law 106–113 amended section 1886(h)(4)(H) of the Act to add a provision that in the case of a hospital that is not located in a rural area but establishes separately accredited approved medical residency training programs (or rural tracks) in a rural area or has an accredited training program with an integrated rural track, an adjustment may be made to the hospital's cap on the number of residents. For direct GME, the amendment applies to payments to hospitals for cost reporting periods beginning on or after April 1, 2000; for IME, the amendment applies to discharges occurring on or after April l, 2000.

Section 407(c) of Public Law 106–113 did not define ''rural tracks'' or an ''integrated rural track,'' nor are these terms defined elsewhere in the Social Security Act or in any applicable Federal regulations. Currently, there are a number of accredited residency programs, particularly 3-year primary care residency programs, in which residents train for 1 year of the program at an urban hospital and are then rotated for training for the other 2 years of the 3-year program to a rural facility. These separately accredited ''rural track'' programs are identified by the Accreditation Council of Graduate Medical Education (ACGME) as ''1–2'' rural track programs. Accordingly, we implemented section 407(c) to address these ''1–2'' programs. In addition, we implemented section 407(c) to account for other programs that are not ''1–2'' programs but which include rural training portions.

As stated above, since there is no existing definition of ''rural track'' or ''integrated rural track,'' we defined at § 413.86(b) a ''rural track'' and an ''integrated rural track'' as an approved medical residency training program established by an urban hospital in which residents train for a portion of the program at the urban hospital and then rotate for a portion of the program to a rural hospital(s) or to a rural nonhospital site(s). We noted that ''rural track'' and ''integrated rural track,'' for purposes of this definition, are synonymous.

We amended § 413.86 to add paragraph (g)(11) (and amended § 412.105 to add paragraph (f)(1)(x)) to specify that, for direct GME, for cost reporting periods beginning on or after April 1, 2000, (or, for IME, for discharges occurring on or after April 1, 2000), an urban hospital that establishes a new residency program, or has an existing residency program, with a rural track (or an integrated rural track) may include in its FTE count residents in those rural tracks, in addition to the residents subject to the FTE cap at § 413.86(g)(4). An urban hospital may count the residents in the rural track up to a ''rural track FTE limitation'' for that

hospital. We defined this rural track FTE limitation at § 413.86(b) as the maximum number of residents training in a rural track residency program that an urban hospital may include in its FTE count, that is in addition to the number of FTE residents already included in the hospital's FTE cap.

Generally, the rural track policy is divided into two categories: Rural track programs in which residents are rotated to a rural area for at least two-thirds of the duration of the program; and rural track programs in which residents are rotated to a rural area for less than two-thirds of the duration of the program. These two categories are then subdivided according to where the residents are training in the rural area; the residents may be trained in a rural hospital or the residents may be trained in a rural nonhospital site. To account for rural track residency programs with rural rotations that have program lengths greater than or less than 3 years, or that are not ''1–2'' programs, we specified ''two-thirds of the length of the program,'' instead of ''2 out of 3 program years,'' as a qualification to count FTEs in the rural track.

In the interim final rule with comment period, we specified that urban hospitals that wish to count FTE residents in rural tracks, up to a rural track FTE limitation, must comply with the conditions discussed below:

(1) Rotating Residents for at Least Two-Thirds of the Program to a Rural Hospital(s)

In the August 1, 2000 interim final rule with comment period, we specified at § 413.86(g)(11)(i) that if an urban hospital rotates residents in the rural track program to a rural hospital(s) for at least two-thirds of the duration of the program, the urban hospital may include those residents in its FTE count for the time the rural track residents spend at the urban hospital. The urban hospital may include in its FTE count those residents in the rural track training at the urban hospital, not to exceed its rural track FTE limitation, determined as follows:

- For the first 3 years of the rural track's existence, the rural track FTE limitation for each urban hospital will be the actual number of FTE residents training in the rural track at the urban hospital.
- Beginning with the fourth year of the rural track's existence, the rural track FTE limitation is equal to the product of: (1) The highest number of residents in any program year who, during the third year of the rural track's existence, are training in the rural track at the urban hospital or the rural hospital(s) and are designated at the beginning of their training to be rotated to the rural hospital(s) for at least two-thirds of the duration of the program; and (2) the number of years those residents are training at the urban hospital.

We utilized the term ''designated'' at § 413.86(g)(11)(i) (as well as at §§ 413.86(g)(11)(ii) and (iv)) to refer to the calculation of the rural track FTE limitation. ''Designated'' means that the residents must actually have enrolled in that rural track program to rotate for a portion of the rural track program to a rural area (either rural hospital(s) or rural nonhospital site(s)). To be counted as an FTE in this first scenario, these enrolled residents must actually rotate for at least two-thirds of the duration of the program to a rural hospital(s). If a resident, at the beginning of his or her training, intends to train in the rural area for at least two-thirds of the duration of the program, but ultimately never does so, this resident would be proportionately excluded from the urban hospital's rural track FTE limitation.

We noted that if the residents in the rural track are rotating to a rural hospital(s), the rural hospital(s) may be eligible to count the residents as part of its FTE count. If the rural track residency program is a new residency program as specified in redesignated § 413.86(g)(12), the rural hospital may be eligible to receive an FTE cap adjustment for those residents training in the rural track for the time those residents are training at the rural hospital(s), in accordance with the provisions of existing § 413.86(g)(6)(iii). If the rural track residency program is an existing residency program, a rural hospital may be eligible to count the FTE residents training in the rural track at the rural hospital(s), in accordance with the provisions of § 413.86(g)(4), as amended in the interim final rule with comment period to implement section 407(b)(1) of Public Law 106–113.

(2) Rotating Residents for at Least Two-Thirds of the Program to a Rural Nonhospital Site

In the August 1, 2000 interim final rule with comment period, we specified at § 413.86(g)(11)(ii) that if an urban hospital rotates residents in the rural track program to a rural nonhospital site(s) for at least two-thirds of the duration of the program, the urban hospital may include those residents in its FTE count, subject to the requirements under existing § 413.86(f)(4). The urban hospital may include in its FTE count those residents in the rural track, not to exceed its rural track FTE limitation, determined as follows:

- For the first 3 years of the rural track's existence, the rural track FTE limitation for each urban hospital will be the actual number of FTE residents training in the rural track at the urban hospital and the rural nonhospital site.
- Beginning with the fourth year of the rural track's existence, the rural track FTE limitation is equal to the product of: (1) The highest number of residents in any program year who, during the third year of the rural track's existence, are training in the rural track at the urban hospital and are designated at the beginning of their training to be rotated to a rural nonhospital site(s) for at least two-thirds of the duration of the program and the rural nonhospital site(s); and,(2) the number of years in which the residents are expected to complete each program based on the minimum accredited length for the type of program.

We note that we specified at § 413.86(g)(11)(ii) that an urban hospital may include in its FTE count those residents in the rural track rotating to a rural nonhospital site, subject to the requirements under existing § 413.86(f)(4). Section 413.86(f)(4) provides, in part, that a hospital that incurs ''all or substantially all'' of the costs of training residents in a nonhospital site may include those residents in determining the number of FTE residents (not to exceed the FTE cap) for that hospital. Under this rural track policy, where the urban hospital rotates residents for at least two-thirds of the residency program to a rural nonhospital site, the urban hospital would be eligible to include in its FTE count residents training in the rural track up to its rural track FTE limitation, but the urban hospital must still reimburse the rural nonhospital site for the costs of training those residents, as specified under § 413.86(f)(4). In the August 1, 2000 interim final rule with comment period (66 FR 47034), we included an example of application of this policy.

(3) Rotating Residents for Less Than Two-Thirds of the Program to a Rural Hospital(s)

In the August 1, 2000 interim final rule with comment period, we specified at § 413.86(g)(11)(iii) that if an urban hospital rotates residents in the rural track program to a rural hospital(s) for periods of time that are less than two-thirds of the duration of the program, the urban hospital may not include those residents in its FTE count, nor may the urban hospital include those residents as part of its rural track FTE

limitation. However, we noted that, in this scenario, if the rural track residency program is a new residency program as specified in redesignated § 413.86(g)(12), the rural hospital may be eligible to receive an FTE cap adjustment for those residents training in the rural track, in accordance with the provisions of existing § 413.86(g)(6)(iii). If the rural track residency program is an existing residency program, a rural hospital may count the FTE residents training in the rural track at the rural hospital(s), in accordance with the provisions of § 413.86(g)(4), as amended, to incorporate the provisions of section 407(b)(1) of Public Law 106–113.

We are not permitting an urban hospital to count the time of residents training at the urban hospital in a rural track rotating to a rural hospital(s) for less than two-thirds the duration of the program (either as part of the urban hospital's FTE count or as part of its rural track FTE limitation), because to do so would inappropriately allow the urban hospital to circumvent the FTE caps by creating a new program with minimal training in a rural track. However, in this situation, like the other three provisions that concern the training of residents in rural areas, we indicated that we will allow Medicare payment for the rural portion of the training to the rural hospital.

(4) Rotating Residents for Less Than Two-Thirds of the Program to a Rural Nonhospital Site

In the August 1, 2000 interim final rule with comment period, we specified at § 413.86(g)(11)(iv) that if an urban hospital rotates residents in the rural track program to a rural nonhospital site(s) for periods of time that are less than two-thirds of the duration of the program, the urban hospital may include those residents in its FTE count, subject to the requirements under existing § 413.86(f)(4). The urban hospital may include in its FTE count those residents in the rural track, not to exceed its rural track FTE limitation, determined as follows:

- For the first 3 years of the rural track's existence, the rural track FTE limitation for the urban hospital will be the actual number of FTE residents training in the rural track at the rural nonhospital site.
- Beginning with the fourth year of the rural track's existence, the rural track FTE limitation is equal to the product of: (a) The highest number of residents in any program year who, during the third year of the rural track's existence, are training in the rural track at the rural nonhospital site(s); and (b) the length of time in which the residents are being trained at the rural nonhospital site(s).

We noted that, in this situation, an urban hospital would not be able to count the FTE for the rural track resident while the resident is training at the urban hospital. The rural track FTE count and the rural track FTE limitation for the urban hospital would be limited to account for the residents training at the rural nonhospital site.

As in the second scenario at § 413.86(g)(11)(ii), we specified at § 413.86(g)(11)(iv) that an urban hospital may include in its FTE count those residents in the rural track rotating to a rural nonhospital site, subject to the requirements under § 413.86(f)(4). Under the rural track policy, where the urban hospital rotates residents for less than two-thirds of the residency program to a rural nonhospital site, the urban hospital would be eligible to include in its FTE count residents training in the rural track up to its rural track FTE limitation, but the urban hospital must still reimburse the rural nonhospital site for the costs of training those residents, as specified under § 413.86(f)(4).

We noted that, in this last scenario, we are allowing the urban hospital to receive a rural track FTE limitation even in situations where it is rotating residents to a rural area for a minimal period of time (less than two-thirds the duration of the program). However, we believe that this last scenario can be distinguished from the third scenario in which the urban hospital is again rotating residents to a rural area for a minimal portion of the program but to a rural hospital instead of a rural nonhospital site. In the third scenario, we allow Medicare payment to go to the rural hospital for the portion of the urban hospital program that involves rural training (but not to the urban hospital, if the rural hospital is receiving an FTE cap adjustment for that training). However, in the last scenario, we allow the urban hospital to include the rural track residents in its FTE count (and as part of its rural track FTE limitation), based on how long it rotates the residents to the rural nonhospital site (and also incurs all or substantially all of the training costs). We do not believe that the urban hospital can circumvent its FTE cap in this last scenario because it will only count the rural track residents based on the portion of training in the rural nonhospital site. In the interim final rule with comment period (66 FR 47035), we included an example of the last scenario.

(5) Conditions That Apply to All Urban Hospitals

In the August 1, 2000 interim final rule with comment period, we specified that all urban hospitals that wish to count FTE residents in rural tracks, not to exceed their respective rural track FTE limitations, must also comply with each of the following conditions, as stated at §§ 413.86(g)(11)(v) and (vi):

- A hospital may not include in its FTE count residents who are training in a rural track residency program that were already included as part of the hospital's FTE cap (if the rural track program was in existence during the hospital's most recent cost reporting period ending on or before FY 1996).
- A hospital must base its count of residents in a rural track on written contemporaneous documentation that each resident enrolled in a rural track program at the urban hospital intends to rotate for a portion of the residency program to a rural area. For example, written contemporaneous documentation might be a letter of intent signed and dated by the rural track residency program director and the resident at the time of the resident's entrance into the rural track program as a PGY 1.
- All residents who are included by the hospital as part of its FTE count (not to exceed its rural track FTE limitation) must ultimately train in the rural area.
- If we find that residents who are included by the urban hospital as part of its FTE count did not actually complete the training in the rural area, we will reopen the urban hospital's cost report within the 3-year reopening period (as specified in § 405.1885) and adjust the hospital's Medicare GME payments (and, where applicable, the hospital's rural track FTE limitation).

We received several comments regarding the provisions of section 407 of Public Law 106–113 implemented in the August 1, 2000 interim final rule with comment period.

*Comment:* One commenter cited studies that found that more than half of residents with as little as 3 months of rural training became rural physicians, and, therefore, to best serve the intent of the legislation and significantly increase the number of rural physicians, we should fully fund FTEs with less than two-thirds total training in rural areas.

*Response:* Section 1886(h)(4)(H)(iv) of the Act, as added by section 407(c) of Public Law 106–113, provides for adjustments to the FTE cap ''[i]n the case of a hospital that is not located in a rural area but establishes *separately accredited* approved medical residency training programs (or rural tracks) in a[]

rural area * * *.'' Thus, in order for a hospital to receive an adjustment under this provision, the training program must be *separately accredited.* The ACGME has established criteria to separately accredit programs that involve training in rural areas; under these criteria, a training program may be separately accredited if residents in the program train for at least 2 years of the 3-year program at a rural facility. Currently, the ACGME does *not* separately accredit a program as a rural track program or a program in a rural area unless it meets this ''1–2'' condition. We make an adjustment to the FTE cap under the rural track provision only if a program is separately accredited, and in order to be separately accredited, the program must meet ACGME's ''1–2'' criteria. We are amending the regulations at § 413.86 by adding paragraph (g)(11) to reflect this policy .

Furthermore, we believe that incorporating the ACGME's criteria reasonably identifies the situations in which an adjustment to the FTE cap under the rural track provision is warranted. We believe that it is important to limit adjustments under this provision to situations in which residents receive a significant amount of training in rural areas. While we certainly agree that post-residency physician retention in rural areas is important, we believe that it is also important to prevent hospitals from receiving adjustments to the FTE cap in situations when an adjustment is not warranted. We believe that, if an urban hospital could receive an adjustment to its FTE cap by providing only a nominal amount of training in a rural area, then hospitals might be able to inappropriately circumvent the FTE caps. Thus, our policy reflects the requirements of the statute as well as a balancing of considerations (permitting adjustments for hospitals that establish programs that provide a significant amount of training in rural areas, and preventing adjustments for hospitals that do not warrant an adjustment).

*Comment:* One commenter noted that, for cost reporting periods beginning on or after April 1, 2000, section 407 of Public Law 106–113 allows rural hospitals to increase their FTE resident caps by 30 percent and urban hospitals with rural training tracks to count those residents in rural tracks. The commenter had two concerns: (1) What happens to rural track programs that were in existence between January 1, 1997 and April 1, 2000; and (2) if the intent of the rural track provision is to encourage training in rural areas, then rural track programs in existence between January 1, 1997 and April 1, 2000 should also be permitted to expand by 30 percent.

*Response:* Section 1886(h)(4)(F) of the Act, as added by section 407(b) of Public Law 106–113, and as implemented at §§ 413.86(g)(4) and 412.105(f)(1)(iv), provides for a 30-percent expansion to a *rural* hospital's direct and indirect FTE counts for purposes of establishing the hospital's individual FTE cap. Section 407(c) provides for an adjustment to the FTE cap of *urban* hospitals for training residents in rural areas. Section 407(b) clearly only applies to *rural* hospitals, and not to urban hospitals, regardless of whether or not the urban hospitals train residents in rural areas. Therefore, while the general intent of the provisions at section 407 is to encourage training in rural areas, only those rural hospitals that have a FTE resident cap based on the count of residents in the hospital's cost reporting period ending on or before December 31, 1996, may qualify for a 30-percent increase to that FTE cap under the amendments made by section 407(b).

To address the commenter's uncertainty concerning what happens to rural track programs that were in existence between January 1, 1997 and April 1, 2000, we point to our language at §§ 413.86(g)(11) and 412.105(f)(1)(x) which states that for cost reporting periods beginning on or after April 1, 2000, ''an urban hospital that establishes a new residency program, *or has an existing residency program,* with a rural track (or an integrated rural track) may include in its FTE count residents in those tracks * * *'' (emphasis added). Thus, urban hospitals with rural tracks that were in existence between January 1, 1997 and April 1, 2000, and continue to be in existence afterApril 1, 2000, may be eligible for Medicare payment under this provision. We note that urban hospitals with rural tracks that were established *before* January 1, 1997, and continued to exist after April 1, 2000, may be eligible for payment under this rural track provision, as well.

We note that we have received questions from the provider industry regarding the application of the rural track FTE limitation and rural track FTE count to hospitals with rural track programs that have already been in existence before April 1, 2000. Generally, the methodology at § 413.86(g)(11) states that the actual count of residents for the first 3 years of the rural track's existence is to be used as the hospital's rural track FTE limitation, and beginning with the fourth year, the rural track FTE limitation is determined based on the number of residents training in the rural track in the third year of the program's existence. However, if a rural track program has been in existence for at least 3 years prior to April 1, 2000, the provision regarding using the actual count of residents in the first 3 years of the program would not apply. Rather, for such a program, the rural track FTE limitation would take effect immediately on April 1, 2000. The limitation would be based on the highest number of residents in any program year training in the rural track in the third year of the program, depending on the amount of time the residents spent in the rural area, subject to the regulations at § 413.85(g)(11)(i) through (iv). It would be the responsibility of the hospital to provide the necessary information regarding the third year of the program to the fiscal intermediary. For example, if the third year of the rural track's existence is July 1, 1997 to June 30, 1998, the rural track FTE limitation would be based on the highest number of residents in any program year in 1997–1998 training year. The urban hospital may begin to count the additional FTEs up to its rural track FTE limitation in its cost reporting period beginning on or after April 1, 2000 for direct GME, and for discharges occurring on or after April 1, 2000 for IME.

*Comment:* One commenter noted that the interim final rule with comment period states that ''all residents that are included by the hospital as part of its FTE count must ultimately train in the rural area.'' The commenter expressed concern that we are requiring hospitals to designate specific *individuals,* rather than *FTEs,* and that basing payment on individuals rather than FTEs would set a poor precedent. The commenter further stated that, while specific individuals may not remain in a program, hospitals should be permitted to fill these slots with FTEs and receive payment.

*Response:* The commenter is concerned with the provision at § 413.86(g)(11)(v)(C), which states that all residents that are included by the hospital as part of its FTE count under this provision must ultimately train in the rural area. As the commenter correctly assesses, this particular provision would link the rural track policy to specific individual residents, rather than FTEs. We made this link to individuals rather than FTEs because we believe the additional provision at § 413.86(g)(11)(v)(C) (as well as the provision at §§ 413.86(g)(11)(v)(B)) was necessary in order to ensure that urban hospitals did not count additional FTE

residents who did not actually rotate at any time to a rural area.

However, we understand the commenter's concern about permitting hospitals to fill slots with FTEs that are open because individuals did not remain in the program. We agree that where a hospital fills a vacated FTE slot in a rural 1–2 program with another resident, it would be consistent with the intent of the rural track provision to allow the urban hospital to count the time of the resident who left the training program. Accordingly, we are amending the regulations at § 413.86(g)(11)(v)(C) to allow for the counting of the resident's time at the urban hospital where, for example, a resident who just completed her PGY1 year at the urban hospital decides to drop out of the program, and then the urban hospital fills the vacated FTE slot with another PGY2 resident who then continues and completes the rural portion of the rural track program. We note that we would *not* allow for the counting of the time at the urban hospital for the first year of training for that resident who left the program where the urban hospital fills the vacated FTE slot with another PGY1 resident who first begins to train in the urban hospital, since, in effect, this would result in double counting one FTE at the urban hospital without the required amount of training occurring in the rural area.

*Comment:* One commenter expressed concern with the provision at § 413.86(g)(11)(v)(A) that states ''an urban hospital may not include in its rural track FTE limitation or FTE count residents who are training in a rural track residency program that were already included as part of the hospital's FTE cap.'' The commenter stated that this provision fails to account for the fact that many hospitals may have ''backed out'' residents training time in rural sites from their base year FTE cost reports. The commenter stated further that this provision may be interpreted by cost report accountants to mean that appeals to include FTEs that were excluded by Public Law 105–33 are prohibited.

*Response:* We believe the commenter is confusing the provision at § 413.86(g)(11)(v)(A), that an urban hospital may not include in its rural track FTE limitation or rural track FTE count residents who are training in a rural track residency program that were already included as part of the hospital's FTE cap, and the policy contained in section 4623 of Public Law 105–33, as implemented at §§ 412.105(f)(1)(iv) and 413.86(g)(4), which places a limit on the count of residents, or hospitals' FTE caps. The intent of the provision at § 413.86(g)(11)(v)(A) is to encourage more residency training in rural areas by providing for Medicare payment to an urban hospital for FTE residents who are training in a rural area and are not already included as part of the hospital's FTE cap. Whether or not there are many hospitals that have ''backed out'' resident training time in rural sites from their base year FTE cost reports is irrelevant to this rural track requirement. The possible mistaken exclusion of the count of resident FTEs spent in rural settings is an issue relevant to the determination of a hospital's initial FTE cap as provided for at §§ 412.105(f)(1)(iv) and 413.86(g)(4). The rural track requirement at § 413.86(g)(11)(v)(A) was not intended to provide for adjustments to reflect FTEs that were excluded from the FTE cap.

With regard to rural training, generally, and the determination of a hospital's FTE cap under §§ 412.105(f)(1)(iv) and 413.86(g)(4), a FTE resident should not have been included in the hospital's FTE cap to the extent that, in that cost reporting year, the resident was rotating to another rural hospital, or if the resident was rotating to a rural nonhospital to which the urban hospital was not paying all or substantially all of the costs of training (see § 413.86(f)(3)).

To clarify the intent of the requirement that ''an urban hospital may not include in its rural track FTE limitation or FTE count residents who are training in a rural track residency program that were already included as part of the hospital's FTE cap,'' we are providing the following example:

- Assume there are 10 unweighted FTE residents training at an urban Hospital A in the hospital's most recent cost reporting period ending on or before December 31, 1996, thereby establishing Hospital A's FTE cap at 10.
- In July 2002, Hospital A starts a rural training track program. In addition to devoting 2 out of its 10 FTE slots to the rural track, Hospital A recruits an additional 2 FTEs to participate in the rural track, for a total of 12 FTEs to be trained in that cost reporting year.
- These 4 FTEs will complete 1 year of training at Hospital A and 2 years of training at a rural nonhospital site. This type of program is modeled after the scenario outlined at § 413.86(g)(11)(ii), where the urban hospital may include in its FTE count the FTEs in the rural track at the urban hospital and at the rural nonhospital site. (Hospital A is complying with the requirements at § 413.86(f)(4) regarding the counting of residents in nonhospital sites).

However, when calculating the rural track FTE limitation in the fourth year of the rural track's existence, Hospital A may not include in its rural track FTE limitation *those FTEs that were already included as part of the hospital's initial FTE cap.* Two of the hospital's four FTEs training in the rural track were already included in the hospital's FTE cap. Therefore, beginning July 2002, only two FTEs may be included to determine the hospital's rural track FTE limitation, as well as its rural track FTE count. Since it is the two FTEs that Hospital A added when it started the rural track that have caused the hospital to exceed its FTE cap, only two FTEs may be counted above the FTE cap for the hospital's rural track FTE count and limitation. However, we note that the other two FTEs training in the rural track that were not included as part of the hospital's *rural* FTE count and limitation because they had already been included as part of the hospital's FTE cap, may still be counted by the hospital in its *general* FTE count, according to §§ 412.105(f) and 413.86(f).

*Comment:* One commenter requested that, since rural hospitals often do not have the resources or infrastructure to claim their GME costs on a Medicare cost report, we should revise the regulations to allow urban hospitals to claim the resident FTEs training at the rural hospitals, as long as the urban hospitals are providing ''adequate funding'' to the rural hospital, similar to our Medicare policy on nonhospital settings.

*Response:* In regard to the request to allow urban hospitals to claim the FTEs training in rural hospitals, while we understand that it is not uncommon for urban hospitals to incur the costs of training residents in rural hospitals because the rural hospitals cannot incur the costs themselves, there is longstanding policy that prohibits one hospital from claiming the training time of FTEs training at another hospital. First, section 1886(h)(4)(B) of the Act states that the rules governing the direct GME computation of count of the number of FTE residents ''shall take into account individuals who serve as residents for only a portion of a period with a hospital or simultaneously with more than one hospital.'' Accordingly, the September 4, 1990 **Federal Register** (55 FR 36065) states that ''* * * the other hospital is required to include the portion of time the resident spent at its facility in its FTE count consistent with § 413.86(f).'' Further, the regulations at § 413.86(f)(2) state that ''No individual may be counted as more than one FTE * * *. [I]f a resident spends time in more than one hospital * * * the

resident counts as partial FTE based on the proportion of time worked at the hospital to the total time worked * * *.'' Therefore, even though the urban hospital incurs the training costs and the rural hospital does not claim the FTEs for Medicare direct GME and IME payment purposes, the urban hospital is precluded from claiming any FTEs training at the rural hospital (or any other hospital, for that matter). The commenter is correct in stating that a hospital may count the time residents spend in *nonhospital* settings if they comply with the criteria at § 413.86(f)(4). However, this regulation implements *statutory* provisions (sections 1886(d)(5)(B)(iv) and 1886(h)(4)(E) of the Act), which specifically provide for Medicare direct GME and IME payment to be made to hospitals for training residents in nonhospital settings.

*Comment:* One commenter objected to the policy in the interim final rule with comment period that the terms ''rural track'' and ''integrated rural track'' are synonymous. The commenter (a hospital) believed that we have the authority to develop a new definition for ''integrated rural track'' based on our interpretations of congressional intent, and we should not wait for further clarification from Congress at the expense of the commenter's particular allopathic family practice residency program. The commenter described this program as one in which the residents train in the rural setting for approximately 7 months out of a 3-year program, and for the remainder of the program when the residents spend training in the urban setting, the residents treat rural patients. The commenter proposed the following new definition for integrated rural track: ''*Accredited Training Program with an Integrated Rural Track*—refers to an accredited program that provides at least 6 months of training at a rural location in addition to 2 years of rural training at an urban location. The 6 months of rural training should be conducted as part of all 3 years of training. The program should also establish a continuity of care with patients in a rural area for at least one program year.''

*Response:* When we implemented this provision on August 1, 2000, we did so based on discussions with the Accreditation Council for Graduate Medical Education (ACGME), which accredits rural track programs. The ACGME specifically identifies and separately accredits programs with 1 year of training in an urban hospital and 2 years of training in a rural facility as ''rural tracks.'' However, the ACGME explained that it did not have a separate definition of ''integrated rural track'' and, in particular, did not separately classify programs with portions of rural training of less than 2 years as ''integrated rural tracks''. In response to questions raised on this provision, we have followed up with the ACGME to confirm whether a definition of, or criteria for identifying programs with, ''integrated rural tracks'' had been established. We were informed that the term ''integrated rural track'' is not, and never was, a term that is used by the ACGME in accrediting its programs. Other than the 1–2 programs that specifically incorporate 2 years of rural training, the ACGME does not grant unique accreditation to programs with a rural focus, nor do any of the other accreditation organizations listed at § 415.152.

In addition, we do not believe it is administratively feasible for us to review documentation and confirm that the training at the urban hospital, as suggested by the commenter, is rural in nature, based on the patient load treated by the residents at the urban hospital. We currently do not have a way of tying patient data to the residents that treat them. Accordingly, for purposes of this policy, until we believe we can appropriately categorize and define rural tracks and integrated rural tracks separately, we will continue to define these terms synonymously. We remain open to adopting another definition of a separately accredited training program, and we welcome suggestions for definitions that would be administratively feasible to apply.

*Comment:* One commenter suggested that we add a fifth scenario to those already described at § 413.86(g)(11). The commenter proposed the following regulation text:

*Rotating Residents of an Accredited Training Program with an Integrated Rural Track to a Rural Nonhospital Site*—If an urban hospital rotates residents in an accredited training program with an integrated rural track to a rural nonhospital site throughout all 3 years of training, the urban hospital may include those residents in its FTE count, subject to the requirements under existing § 413.86(g)(4). The urban hospital may include in its FTE count those residents in the rural track, not to exceed its rural track FTE limitation, determined as follows:

(A) For the first 3 years of the integrated rural track's existence, the rural track FTE limitation for each urban hospital will be the actual number of FTE residents training in the rural track at the urban hospital and the rural nonhospital site.

(B) Beginning with the fourth year of the integrated rural track's existence, the rural track FTE limitation is equal to the product of:

(*1*) The highest number of residents in any program year who, during the third year of the integrated rural track's existence, are training in the integrated rural track at the urban hospital and are designated at the beginning of their training to be rotated to a rural nonhospital site throughout all 3 years of training, and

(*2*) The number of years in which the residents are expected to complete each program based on the minimum accredited length for the type of program.

(C) This would apply to accredited training programs with integrated rural tracks that were in existence prior to 1997.

The commenter explained that this language is designed to address the unique program at the commenter's hospital, and it also is date sensitive so that newer programs would be required to comply with the existing criteria in the existing regulations.

*Response:* We have concerns about the commenter's proposal. First, the commenter assumes a separate definition of ''integrated rural track,'' which, as explained above, we currently do not have. Even if we were to adopt such a change in policy, the cut-off date of 1997 in paragraph (C) of the commenter's proposed changes seems arbitrary; there is nothing in the statute that would serve as a basis to simply grandfather existing ''integrated rural track'' programs and not provide for new ones post-1997. Accordingly, we are not adopting such a change in our rural track policy as the one described by the commenter.

*Comment:* One commenter thought that if a hospital's rural track program has been in existence since 1993, then the 4th program year is 1997. The commenter explained that when the FTE cap went into effect, the hospital was capped at 15 FTEs. The hospital subsequently added another three residents at its own expense. The commenter stated that it interprets § 413.86(g)(11)(v)(A) to mean that the hospital would only be able to count the additional three FTE residents for the rural track count. The commenter urged us to reconsider this language as it relates to hospitals with only one residency program, because the commenter was unsure whether or not all the residents in the program count toward the rural track FTE count. The commenter believed that for hospitals with only one residency program that existed prior to 1996, all rural track residents included in the original hospital FTE cap should be counted toward the rural FTE count.

*Response:* The commenter correctly interprets the intent of the regulation at § 413.86(g)(11)(v)(A), which states that only those FTEs in the rural track that were not already counted as part of the

hospital's FTE cap may be considered when calculating the hospital's rural track FTE limitation and count. In the scenario the commenter outlined above, if the first program year of the rural track program began on July 1, 1993, then the fourth program year would begin on July 1, 1996, not in 1997. Because 15 FTEs were already included in the hospital's FTE cap, assuming the urban hospital qualifies to count the FTEs, only 3 out of the 18 FTE residents training in the program may be considered in determining the hospital's rural track FTE limitation and counts (the specific rural FTE limitation and count are dependent upon which scenario the hospital's program fits under § 413.86(g)(11)).

We do not believe it is necessary to revise this policy for hospitals whose only GME program is the rural track program that was in existence prior to 1996, as the commenter suggested. Hospitals that had rural track programs in existence in 1996 were able to count those residents training at the urban hospital at that time as part of their initial FTE caps. Our existing policy on rural tracks at § 413.86(g)(11) provides additional assistance to these hospitals by allowing them to count separately in their rural track FTE limitations, FTE residents not included in the FTE cap but participating in a rural track.

Accordingly, we are adopting the provisions in the August 1, 2000 interim final rule with comment period implementing section 407(c) of Public Law 106–113 as final.

In addition, we are making a technical correction. The regulations at § 413.86(g)(6) currently state, ''If a hospital established a new medical residency training program as defined in paragraph (g)(9) of this section * * *.'' When we revised the regulations at § 413.86(g)(9) to redesignate the paragraph as § 413.86(g)(12) in the August 1, interim final rule with comment period, we inadvertently did not make a corresponding revision at § 413.86(g)(6). Therefore, we are revising § 413.86(g)(6) to read ''If a hospital established a new medical residency training program as defined in paragraph (g)(12) of this section * * *'' We are making the same revision to the regulations for IME at § 412.105(f)(vii).

d. Not Counting Against Numerical Limitation Certain Residents Transferred from a Department of Veterans AffairsHospital's Residency Program That Loses Accreditation(Section 407(d) of Public Law 106–113 and new 42 CFR 412.105(f)(1)(xii) and 413.86(g)(10))

Section 407(d) of Public Law 106–113 addressed the situation where residents were training in a residency training program at a Veterans Affairs (VA) hospital and then were transferred on or after January 1, 1997, and before July 31, 1998, to a non-VA hospital because the program in which the residents were training would lose its accreditation by the ACGME if the residents continued to train at the VA hospital. In this situation, the non-VA hospital may receive a temporary adjustment to its FTE cap to reflect those residents who were transferred to the non-VA hospital for the duration that those transferred residents were training at the non-VA hospital. In the August 1, 2000 interim final rule with comment period, we specified that, in order to receive this adjustment, the non-VA hospital must submit a request to its fiscal intermediary for a temporary adjustment to its FTE cap, document that the hospital is eligible for this temporary adjustment by identifying the residents who have come from the VA hospital, and specify the length of time the adjustment is needed.

We noted that section 407(d) of Public Law 106–113 only refers to programs that would lose their accreditation by the ACGME. This provision does not apply to accreditation by the American Osteopathy Association (AOA), the American Podiatry Association (APA), or the American Dental Association (ADA).

Under section 407(d)(3) of Public Law 106–113, this policy is effective as if included in the enactment of Public Law 105–33, that is, for direct GME, with cost reporting periods beginning on or after October 1, 1997, and for IME, discharges occurring on or after October 1, 1997. If a hospital is owed payments as a result of this provision, payments must be made immediately.

We added §§ 412.105(f)(1)(xii) and 413.86(g)(10) to incorporate the provisions of section 407(d) of Public Law 106–113.

We did not receive any comments on this provision and are adopting it as final.

e. Initial Residency Period for Child Neurology Residency Programs (Section 312 of Public Law 106–113 and 42 CFR 413.86(g)(1))

Generally, section 1886(h)(5)(F) of the Act defines the term ''initial residency period'' to mean the ''period of board eligibility.'' The period of board eligibility is defined in section 1886(h)(5)(G) of the Act as the period recognized by ACGME as specified in the *Graduate Medical Education Directory* which is published by the American Medical Association. The initial residency period limitation was designed to limit full Medicare payment for direct GME to the time required to train in a single specialty. Therefore, the initial residency period is determined based on the minimum time required for a resident to become board eligible in a specialty and the published periods included in the *Graduate Medical Education Directory.* During the initial residency period, the residents are weighted at 1.0 FTE for purposes of Medicare payment. Residents seeking additional specialty or subspecialty training are weighted at 0.5 FTE.

In order to become board eligible in child neurology, residents must complete training in more than one specialty. Thus, for example, before the effective date of section 312 of Public Law 106–113, if a resident enrolled in a child neurology residency program by first completing 2 years of training in pediatrics (which is associated with a 3-year initial residency period), followed by 3 years of training in child neurology, the resident would be limited by the initial residency period of pediatrics. Section 312 of Public Law 106–113 amended section 1886(h)(5) of the Act by adding at the end a clause (v) which states that ''in the case of a resident enrolled in a child neurology residency training program, the period of board eligibility and the initial residency period shall be the period of board eligibility for pediatrics plus 2 years.'' (The initial residency period for pediatrics is currently 3 years). The policy under section 312(b) of Public Law 106–113 applies to future child neurology residents and to child neurology residents who have already begun their training (for whom an initial residency period was already established). However, it does not apply to residents who have completed their child neurology training before July 1, 2000.

In the August 1, 2000 interim final rule with comment period, we revised § 413.86(g)(1) to reflect that, effective on or after July 1, 2000, for residency programs that began before, on, or after

November 29, 1999, the period of board eligibility and the initial residency period for child neurology is now the period of board eligibility for pediatrics plus 2 years. We noted that the initial residency period is the same for all child neurology residents, regardless of whether or not the resident completes the first year of training in pediatrics or neurology.

We did not receive any comments on this provision and are adopting it as final.

f. Technical Amendment

In the August 1, 2000 interim final rule with comment period, we indicated that it had come to our attention that the first sentence of the then existing § 413.86(g)(1) contains a technical error. The first sentence of this paragraph reads ''For purposes of this section, an initial residency period is the number of years necessary to satisfy the minimum requirements for certification in a specialty or subspecialty, plus one year.'' This section of the regulation was revised as a result of section 13563(b) of Public Law 103–66, and was effective only until June 30, 1995. Generally, effective July 1, 1995, an initial residency period is defined as the minimum number of years required for board eligibility. Therefore, we revised the first sentence of paragraph (g)(1) of § 413.86 accordingly. The remainder of paragraph (g)(1) of § 413.86 was unchanged.

We did not receive any comments on this provision and are adopting it as final.

*I. Additional Payment to Hospitals that Operate Approved Nursing and Allied Health Education Programs*

Under sections 1861(v) and 1886(a) of the Act, hospitals that operate approved nursing or allied health education programs may be eligible for the reimbursement of their reasonable costs of operating such programs. Section 1886(h) of the Act establishes the methodology for determining payments to hospitals for the direct costs of GME programs. Section 1886(h) of the Act, as implemented in regulations at 42 CFR 413.86, specifies that Medicare payments for direct costs of GME are based on a prospectively determined per resident amount (PRA). The PRA is multiplied by the number of full-time equivalent residents working in all areas of the hospital complex (and nonhospital sites, where applicable), and the product is then multiplied by the hospital's Medicare share of total inpatient days to determine Medicare's direct GME payment.

Section 1886(h)(3)(D) of the Act, as added by section 4624 of Public Law 105–33, provides a 5-year phase-in of payments to teaching hospitals for direct costs of GME associated with services to Medicare+Choice (managed care) enrollees for portions of cost reporting periods occurring on or after January 1, 1998. The amount of payment for direct GME is calculated by (1) multiplying the aggregate approved amount (that is, the product of the PRA and the number of FTE residents working in all areas of the hospital (and nonhospital sites, if applicable)), by the ratio of the number of inpatient bed days that are attributable to Medicare+Choice enrollees to total inpatient bed days, and (2) multiplying the result by an applicable percentage.

The applicable percentages are 20 percent for portions of cost reporting periods occurring in calendar year 1998, 40 percent in calendar year 1999, 60 percent in calendar year 2000, 80 percent in calendar year 2001, and 100 percent in calendar year 2002 and subsequent years. (Section 1886(d)(11) of the Act, as added by section 4622 of Public Law 105–33, provides a 5-year phase-in of payments to teaching hospitals for IME associated with services to Medicare+Choice enrollees for portions of cost reporting periods occurring on or after January 1, 1998, as well. However, the Medicare+Choice IME payments are irrelevant for the purposes of this section of the interim final rule with comment period, because although section 541 of Public Law 106–113 affects the payments for Medicare+Choice direct GME, it in no way affects the payments for Medicare+Choice IME.)

1. Provisions of the August 1, 2000 Interim Final Rule with Comment Period (Section 541 of Public Law 106–113 and 42 CFR 413.86(d) and 413.87)

Section 541 of Public Law 106–113 further amended section 1886 of the Act by adding subsection (l) and amending section 1886(h)(3)(D) to provide for additional payments to hospitals for nursing and allied health education programs associated with services to Medicare+Choice enrollees. Hospitals that operate approved nursing or allied health education programs, as defined under the regulations at 42 CFR 413.85, and receive Medicare reasonable cost reimbursement for these programs, would receive additional payments. This provision is effective for portions of cost reporting periods occurring in a calendar year, beginning with calendar year 2000.

Section 1886(l) of the Act, as added by section 541 of Public Law 106–113, specifies the methodology to be used to calculate these additional payments and places a limitation, that is, $60 million, on the total amount that is projected to be expended in any calendar year. We refer to the total amount of $60 million or less as the payment ''pool.'' We emphasize that we use the term ''pool'' solely for ease of reference; the term reflects an estimated dollar figure, a number that is plugged into a formula to calculate the amount of additional payments. The term ''pool'' does not refer to a discrete fund of money that is set aside in order to make the additional payments (thus, for example, if the estimated ''pool'' is $50 million, we use the number $50 million to calculate the amount of additional payments, but this does not mean that we set aside $50 million in a separate fund from which we make the additional payments). The total amount of additional payments is based on the ratio of estimated total direct GME payments for Medicare+Choice enrollees to estimated total Medicare direct GME payments, multiplied by the total Medicare nursing and allied health education payments. Under section 541 of Public Law 106–113, a hospital would receive its share of these additional payments in proportion to the amount of Medicare nursing and allied health education payments received in the cost reporting period that ended in the fiscal year that is 2 years prior to the current calendar year, to the total amount of nursing and allied health payments made to all hospitals in that cost reporting period. Section 541(b) of Public Law 106–113 amended section 1886(h)(3) of the Act to provide that direct GME payments for Medicare+Choice utilization will be reduced to account for the additional payments that are made for nursing and allied health education programs under the provisions of section 1886(l) of the Act.

In the August 1, 2000 interim final rule with comment period, we implemented section 541 by establishing regulations at 42 CFR 413.87 to incorporate the provisions of section 1886(l) of the Act. We specified the rules for a hospital's eligibility to receive the additional payment under section 1886(l), the requirements for determining the additional payment to each eligible hospital, and the methodologies for calculating each additional payment and for calculating the payment ''pool.'' The preamble language regarding § 413.87 can be found in the August 1, 2000 interim final rule with comment period (65 FR 47036 through 47039).

We also made a conforming change to §§ 413.86(d)(4) through (d)(6) to account

for the revised methodology in determining a hospital's Medicare+Choice direct GME payments.

2. Provisions of the June 13, 2001 Interim Final Rule with Comment Period

a. Additional Payment to Hospitals That Operate Approved Nursing and Allied Health Programs (Section 512 of Public Law 106–554 and 42 CFR 413.87)

Public Law 106–554 further amended section 1886(l)(2)(C) of the Act. Specifically, section 512 of Public Law 106–554 changed the formula for determining the additional amounts to be paid to hospitals for Medicare+Choice nursing and allied health costs. Under Public Law 106–113, as described above, the additional payment amount was determined based on the proportion of each individual hospital's nursing and allied health education payments to total nursing and allied health education payments made across all hospitals. This formula does not account for a hospital's specific Medicare+Choice utilization. Section 512 of Public Law 106–554 revised this payment formula to specifically account for each hospital's Medicare+Choice utilization. Accordingly, we made conforming changes at § 413.87 to reflect this change. The changes are effective for portions of cost reporting periods occurring on or after January 1, 2001. We refer the reader to the preamble of the June 13 interim final rule with comment period for a detailed description of the revised methodology for calculating the additional payments (66 FR 32178).

We revised § 413.87 to incorporate the provisions of section 512 of Public Law 106–554.

b. Technical Amendment

In the June 13, 2001 interim final rule with comment period, we indicated that it had come to our attention that the regulations at § 413.86(d)(4) and § 413.87(d) contained errors. The regulations at § 413.86(d)(4) had read, ''Effective for cost reporting periods beginning on or after January 1, 2000, the product derived from step three is reduced in accordance with the provisions of § 413.87(f).'' Consistent with the statutory effective date and to clarify the intent of the reference to § 413.87(f), we revised § 413.86(d)(4) to state that, ''Effective for portions of cost reporting periods occurring on or after January 1, 2000, the product derived from step three is reduced by a percentage equal to the ratio of the Medicare+Choice nursing and allied health payment ''pool'' for the current calendar year as described at § 413.87(f), to the projected total Medicare+Choice direct GME payments made to all hospitals for the current calendar year.'' We also made a conforming change to § 413.87(d), which had read, ''Subject to the provisions of paragraph (f) of this section * * *.'' Instead, we revised this language to state, ''Subject to the provisions of § 413.86(d)(4) * * *.''

*J. Payment for Bad Debts (Section 541 of Public Law 106–554 and 42 CFR 413.80)*

Section 4451 of Public Law 105–33 required that allowable bad debt reimbursement for hospitals be reduced by 25 percent for cost reporting periods beginning during FY 1998, by 40 percent for cost reporting periods beginning during FY 1999, and by 45 percent for cost reporting periods beginning during a subsequent fiscal year.

In the June 13, 2001 interim final rule with comment period (66 FR 32183), we implemented section 541 of Public Law 106–554. Section 541 amended section 1861(v)(1)(T) of the Act, thereby modifying the reduction in payment for Medicare beneficiary bad debt for hospitals made by section 4451 of Public Law 105–33. Specifically, this provision reduced the amount of bad debts otherwise treated as allowable reductions in revenue, attributable to the deductibles and coinsurance amounts, by 30 percent for cost reporting periods beginning during FY 2001 and later. Therefore, for cost reporting periods beginning during the year 2001 and later, hospital bad debt amounts otherwise allowable will be reimbursed at 70 percent of the total allowable amount. In the June 13 interim final rule with comment period, we revised § 413.80 to implement this change.

We did not receive any comments on this provision and, therefore, are adopting the proposed revision to § 413.80 as final.

## V. Changes to the Prospective Payment System for Capital-Related Costs

*A. End of the Transition Period*

Federal fiscal year (FY) 2001 is the last year of the 10-year transition period established to phase in the prospective payment system for hospital capital-related costs. For the readers' benefit, we are providing a summary of the statutory basis for the system, the development and evolution of the system, the methodology used to determine capital-related payments to hospitals, and the policy for providing exceptions payments during the transition period.

Section 1886(g) of the Act requires the Secretary to pay for the capital-related costs of inpatient hospital services ''in accordance with a prospective payment system established by the Secretary.'' Under the statute, the Secretary has broad authority in establishing and implementing the capital prospective payment system. We initially implemented the capital prospective payment system in the August 30, 1991 final rule (56 FR 43409), in which we established a 10-year transition period to change the payment methodology for Medicare inpatient capital-related costs from a reasonable cost-based methodology to a prospective methodology (based fully on the Federal rate).

The 10-year transition period established to phase-in the prospective payment system for capital-related costs is effective for cost reporting periods beginning on or after October 1, 1991 (FY 1992) and before October 1, 2001 (FY 2002). Beginning in FY 2001, the last year of the 10-year transition period for the prospective payment system for hospital capital-related costs, capital prospective payment system payments are based solely on the Federal rate for the vast majority of hospitals. Since FY 2001 is the final year of the capital transition period, we will no longer determine a hospital-specific rate for FY 2002 in section III. of the Addendum of this final rule. For cost reporting periods beginning on or after October 1, 2001, payment for capital-related costs for all hospitals, except those defined as new hospitals under § 412.324(b), will be determined based solely on the capital standard Federal rate.

Generally, during the transition period, inpatient capital-related costs are paid on a per discharge basis, and the amount of payment depends on the relationship between the hospital-specific rate and the Federal rate during the hospital's base year. A hospital with a base year hospital-specific rate lower than the Federal rate is paid under the fully prospective payment methodology during the transition period. This method is based on a dynamic blend percentage of the hospital's hospital-specific rate and the applicable Federal rate for each year during the transition period. A hospital with a base period hospital-specific rate greater than the Federal rate is paid under the hold-harmless payment methodology during the transition period.

During the transition period, a hospital paid under the hold-harmless payment methodology receives the higher of (1) a blended payment of 85 percent of reasonable cost for old capital plus an amount for new capital based on

a portion of the Federal rate; or (2) a payment based on 100 percent of the adjusted Federal rate. The amount recognized as old capital is generally limited to the allowable Medicare capital-related costs that were in use for patient care as of December 31, 1990. Under limited circumstances, capital-related costs for assets obligated as of December 31, 1990, but put in use for patient care after December 31, 1990, also may be recognized as old capital if certain conditions were met. These costs are known as obligated capital costs. New capital costs are generally defined as allowable Medicare capital-related costs for assets put in use for patient care after December 31, 1990.

Hospitals that are defined as ''new'' for the purposes of capital payments during the transition period (see § 412.300(b)) will continue to be paid according to the applicable payment methodology outlined in § 412.324. During the transition period, new hospitals are exempt from the prospective payment system for capital-related costs for their first 2 years of operation and are paid 85 percent of their reasonable capital-related costs during that period. The hospital's first 12-month cost reporting period (or combination of cost reporting periods covering at least 12 months), beginning at least 1 year after the hospital accepts its first patient, serves as the hospital's base period. Those base year costs qualify as old capital and are used to establish its hospital-specific rate used to determine its payment methodology under the capital prospective payment system. Effective with the third year of operation and through the remainder of the transition period, the hospital will be paid under either the fully prospective methodology or the hold-harmless methodology. If the fully prospective methodology is applicable, the hospital is paid using the appropriate transition blend of its hospital-specific rate and the Federal rate for that fiscal year until the conclusion of the transition period, at which time the hospital will be paid based on 100 percent of the Federal rate. If the hold-harmless methodology is applicable, the hospital will receive hold-harmless payment for assets in use during the base period for 8 years, which may extend beyond the 10-year transition period.

The basic methodology for determining capital prospective payments based on the Federal rate is set forth in § 412.312. For the purpose of calculating payments for each discharge, the standard Federal rate is adjusted as follows:

(Standard Federal Rate) × (DRG Weight) × (GAF) × (Large Urban Add-on, if applicable) × (COLA Adjustment for Hospitals Located in Alaska and Hawaii) × (1 + DSH Adjustment Factor + IME Adjustment Factor)

Hospitals may also receive outlier payments for those cases that qualify under the thresholds established for each fiscal year. Section 412.312(c) provides for a single set of thresholds to identify outlier cases for both inpatient operating and inpatient capital-related payments.

In accordance with section 1886(d)(9)(A) of the Act, under the prospective payment system for inpatient operating costs, hospitals located in Puerto Rico are paid for operating costs under a special payment formula. Prior to FY 1998, hospitals in Puerto Rico were paid a blended rate that consisted of 75 percent of the applicable standardized amount specific to Puerto Rico hospitals and 25 percent of the applicable national average standardized amount. However, effective October 1, 1997, under amendments to the Act enacted by section 4406 of Public Law 105–33, operating payments to hospitals in Puerto Rico are based on a blend of 50 percent of the applicable standardized amount specific to Puerto Rico hospitals and 50 percent of the applicable national average standardized amount. In conjunction with this change to the operating blend percentage, effective with discharges on or after October 1, 1997, we compute capital payments to hospitals in Puerto Rico based on a blend of 50 percent of the Puerto Rico rate and 50 percent of the Federal rate as specified in the regulations at § 412.374. For capital-related costs, we compute a separate payment rate specific to Puerto Rico hospitals using the same methodology used to compute the national Federal rate for capital-related costs.

In the August 30, 1991 final rule (56 FR 43409), we established a capital exceptions policy, which provided for exceptions payments during the transition period (§ 412.348). Section 412.348 provides that during the transition period, a hospital may receive additional payment under the exceptions process when its regular payments are less than a minimum percentage, established by class of hospital, of the hospital's reasonable capital-related costs. The amount of the exceptions payment is the difference between the hospital's minimum payment level and the payments the hospital would have received under the capital prospective payment system in the absence of an exceptions payment. The comparison is made on a cumulative basis for all cost reporting periods during which the hospital has been subject to the capital prospective payment transition rules. The minimum payment percentages throughout the transition period for regular capital exceptions payments by class of hospitals are:

- For sole community hospitals, 90 percent;
- For urban hospitals with at least 100 beds that have a disproportionate share patient percentage of at least 20.2 percent or that received more than 30 percent of their net inpatient care revenues from State or local governments for indigent care, 80 percent;
- For all other hospitals, 70 percent of the hospital's reasonable inpatient capital-related costs.

The provision for ''regular'' exceptions payments expires at the end of the transition period, that is, for cost reporting periods beginning after September 30, 2001. Capital prospective payment system payments are no longer adjusted to reflect regular exceptions payments at § 412.348 after that date. Accordingly, for cost reporting periods beginning on or after October 1, 2001, all hospitals other than those defined as ''new'' under § 412.324(b) will receive only the per discharge payment based on the Federal rate for capital costs (plus any applicable DSH or IME and outlier adjustments) unless a hospital qualifies for a special exceptions payment under § 412.348(g).

*B. Special Exceptions Process*

In the August 30, 1991 final rule (56 FR 43409), we established a capital exceptions policy at § 412.348, which provided for *regular* exception payments during the transition period. In the September 1, 1994 final rule (59 FR 45385), we added the *special* exceptions process, describing it as ''* * * narrowly defined, focusing on a small group of hospitals who found themselves in a disadvantaged position. The target hospitals were those who had an immediate and imperative need to begin major renovations or replacements just after the beginning of the capital prospective payment system. These hospitals would not be eligible for protection under the old capital and obligated capital provisions, and would not have been allowed any time to accrue excess capital prospective payments to fund these projects.''

Under the special exceptions provisions at § 412.348(g), an additional payment may be made through the 10th year beyond the end of the capital

prospective payment system transition period for eligible hospitals that meet (1) a project need requirement as described at § 412.348(g)(2), which, in the case of certain urban hospitals, includes an excess capacity test; and (2) a project size requirement as described at § 412.348(g)(5). Eligible hospitals include sole community hospitals, urban hospitals with at least 100 beds that have a disproportionate share patient percentage of at least 20.2 percent, and hospitals with a combined Medicare and Medicaid inpatient utilization of at least 70 percent.

When we established the special exceptions process, we selected the hospital's cost reporting period beginning before October 1, 2001, as the project completion date in order to limit cost-based exceptions payments to a period of not more than 10 years beyond the end of the 10-year transition to the fully Federal capital prospective payment system. Therefore, hospitals are eligible to receive special exceptions payments for the 10 years after the cost reporting year in which they complete their project. Generally, if a project is completed in the hospital cost reporting period ending September 29, 2002, exceptions payments would continue through September 29, 2012. In addition, we believe that, for projects completed after the deadline, hospitals would have had the opportunity to reserve their prior years' capital prospective payment system payments for financing projects. We note that the August 1, 2000 final rule (65 FR 47095) incorrectly stated that special exceptions payments could extend through September 30, 2011; the date should have been September 29, 2012.

For each cost reporting period, the amount of the special exceptions payment is determined by comparing the cumulative payments made to the hospital under the capital payment system to the cumulative minimum payment levels applicable to the hospital for each cost reporting period subject to the prospective payment system. This comparison is offset or reduced by (1) any amount by which the hospital's cumulative payments exceed its cumulative minimum payments under the regular exceptions process for all cost reporting periods during which the hospital has been subject to the capital prospective payment system; and (2) any amount by which the hospital's current year Medicare inpatient operating and capital prospective payment system payments (excluding 75 percent of its operating DSH payments) exceed its Medicare inpatient operating and capital costs (or its Medicare inpatient margin). During the capital prospective payment system transition period, the minimum payment level under the regular exceptions process varied by class of hospital as set forth in § 412.348(c) and described in section V.A. of this preamble. After the transition period and for the duration of the special exceptions provision, the minimum payment level is 70 percent as set forth in § 412.348(g)(6).

As we indicated in the July 30, 1999 final rule (64 FR 41526), we have little information about the number of hospitals that may qualify for special exceptions payments or the projected dollar amount of special exception payments, because no hospitals are currently being paid under the special exceptions process. Until FY 2002, the special exceptions provision pays either the same as the regular exceptions process or less for high DSH and sole community hospitals. In accordance with § 412.348(g)(7), a qualifying hospital may receive additional payments for up to 10 years from the year in which it completes a project that meets the project need and project size requirements of the special exception provision in §§ 412.348(g)(2) through (g)(5). Because a qualifying project under the special exceptions provision at § 412.348(g) must be completed (put into use for patient care) by the end of the hospital's last cost reporting period beginning before the end of the transition period (September 30, 2001), a hospital may receive special exception payments for 10 years through September 30, 2012. For example, an eligible hospital that completes a qualifying project in October 1993 (FY 1994) will be eligible to receive special exception payments up through FY 2003 (September 30, 2003).

In order to assist our fiscal intermediaries in determining the end of the 10-year period in which an eligible hospital will no longer be entitled to receive special exception payments, in the May 4, 2001 proposed rule, we proposed to add a new § 412.348(g)(9) to require that hospitals eligible for special exception payments under § 412.348(g) submit documentation to the intermediary indicating the completion date of their project (the date the project was put in use for patient care) that meets the project need and project size requirements outlined in §§ 412.348(g)(2) through (g)(5). We proposed that, in order for an eligible hospital to receive special exception payments, this documentation would have to be submitted in writing to the intermediary by the later of October 1, 2001, or within 3 months of the end of the hospital's last cost reporting period beginning before October 1, 2001, during which a qualifying project was completed. For example, if a hospital completed a qualifying project in March 1995, it would be required to submit documentation to the intermediary by October 1, 2001. If a hospital with a 12-month cost reporting period beginning on July 1 completed a qualifying project in November 2001, it would be required to submit documentation to the intermediary no later than September 30, 2002, which is 3 months after the end of its 12-month cost reporting period that began on July 1, 2001.

We did not receive any comments on our proposed revision to § 412.348 to add paragraph (g)(9). Accordingly, we are adopting the proposed revision as final without change.

*C. Exceptions Minimum Payment Level*

Section 412.348(h) limits the estimated aggregate amount of exceptions payments under both the regular exceptions and special exceptions process to no more than 10 percent of the total estimated capital prospective payment system payments in a given fiscal year. Consistent with the requirements for regular exceptions at § 412.348(c), in the May 4, 2001 proposed rule, we proposed that if we estimate that special exception payments would exceed 10 percent of total capital prospective payment system payments for a given fiscal year, we will adjust the minimum payment level of 70 percent by one percentage point increments until the estimated payments are within the 10-percent limit. For example, we could set the minimum payment level at 69 percent to ensure that estimated aggregate special exceptions payments do not exceed 10 percent of estimated total capital prospective payment system payments. If the estimate of aggregate special exceptions payments were still projected to exceed 10 percent of total capital prospective payment system payments, we would continue reducing the minimum payment level by one percentage point increments until the requirements in § 412.348(h) were satisfied. We proposed to revise § 412.348(g)(6) accordingly to reflect this policy.

We received no comments on this proposed change. Thus, we are revising § 412.348(g)(6) accordingly.

*D. Exceptions Adjustment Factor*

Section 412.308(c)(3) requires that the standard capital Federal rate be reduced by an adjustment factor equal to the estimated proportion of additional payments for both regular exceptions and special exceptions under § 412.348

relative to total capital prospective payment system payments. In estimating the proportion of regular exceptions payments to total capital prospective payment system payments during the transition period, we used the model originally developed for determining budget neutrality (described in Appendix B of this final rule) to determine the exception adjustment factor, which was applied to both the Federal and hospital-specific rates. In the May 4, 2001 proposed rule, we described our proposed methodology for determining the special exceptions adjustment used in establishing the Federal capital rate as follows:

Under the special exceptions provision specified at § 412.348(g)(1), eligible hospitals include SCHs, urban hospitals with at least 100 beds that have a disproportionate share patient percentage of at least 20.2 percent or qualify for DSH payments under § 412.106(c)(2), and hospitals with a combined Medicare and Medicaid inpatient utilization of at least 70 percent. An eligible hospital may receive special exception payments if it meets (1) a project need requirement as described at § 412.348(g)(2), which, in the case of certain urban hospitals, includes an excess capacity test; (2) an age of assets test as described at § 412.348(g)(3); and (3) a project size requirement as described at § 412.348(g)(5).

In order to determine the estimated proportion of special exceptions payments to total capital payments, we attempted to identify the universe of eligible hospitals that may potentially qualify for special exception payments. First, we identified hospitals that met the eligibility requirements at § 412.348(g)(1). Then we determined each hospital's average fixed asset age in the earliest available cost report starting in FY 1992 and later. For each of those hospitals, we calculated the average fixed asset age by dividing the accumulated depreciation by the current year's depreciation. In accordance with § 412.348(g)(3), a hospital must have an average age of buildings and fixed assets above the 75th percentile of all hospitals in the first year of capital prospective payment system. In the September 1, 1994 final rule (59 FR 45385), we stated that, based on the June 1994 update of the cost report files in HCRIS, the 75th percentile for buildings and fixed assets for FY 1992 was 16.4 years. However, we noted that we would make a final determination of that value on the basis of more complete cost report information at a later date. In the August 29, 1997 final rule (62 FR 46012), based on the December 1996 update of HCRIS and the removal of outliers, we finalized the 75th percentile for buildings and fixed assets for FY 1992 as 15.4 years. Thus, for the proposed rule, we eliminated any hospitals from the potential universe of hospitals that may qualify for special exception payments if its average age of fixed assets did not exceed 15.4 years.

For the hospitals remaining in the potential universe, we proposed to estimate the project-size by using the fixed capital acquisitions shown on Worksheet A7 from the following HCRIS cost reports updated through December 2000.

| PPS Year | Cost reports periods beginning in . . . |
|---|---|
| IX | FY 1992 |
| X | FY 1993 |
| XI | FY 1994 |
| XII | FY 1995 |
| XIII | FY 1996 |
| XIV | FY 1997 |
| XV | FY 1998 |
| XVI | FY 1999 |

Because the project phase-in may overlap 2 cost reporting years, we proposed to add together the fixed acquisitions from sequential pairs of cost reports to determine project size. Under § 412.348(g)(5), the project-size must meet the following requirements: (1) $200 million; or (2) 100 percent of its operating cost during the first 12-month cost reporting period beginning on or after October 1, 1991. We proposed to calculate the operating costs from the earliest available cost report starting in FY 1992 and later by subtracting inpatient capital costs from inpatient costs (for all payers). We proposed not to subtract the direct medical education costs as those costs are not available on every update of the HCRIS minimum data set. If the hospital met the project size requirement, we assumed that it also met the project need requirements at § 412.348(g)(2) and the excess capacity test for urban hospitals at § 412.348(g)(4).

Because we estimate that so few hospitals will qualify for special exceptions, projecting costs, payments, and margins would result in high statistical variance. Consequently, we modeled the effects of special exceptions using historical data based on hospitals' actual cost experiences. If we determined that a hospital may qualify for special exceptions, we modeled special exceptions payments from the project start date through the last available cost report (FY 1999). For purposes of modeling, we used the cost and payment data on the cost reports from HCRIS assuming that special exceptions would begin at the start of the qualifying project. In other words, when modeling costs and payment data we proposed to ignore any regular exception payments that these hospitals may otherwise have received as if there had not been regular exceptions during the transition period. In projecting an eligible hospital's special exception payments, we applied the 70-percent minimum payment level, the cumulative comparison of current year capital prospective payment system payments and costs, and the cumulative operating margin offset (excluding 75 percent of operating DSH payments).

Because hospitals may receive regular exceptions payments up through the end of their last cost reporting period beginning before October 1, 2001, hospitals with cost reporting periods beginning on a day other than October 1 will continue to receive regular exception payments until the end of their FY 2002 cost reporting period. Therefore, these hospitals will only receive special exception payments for the remainder of Federal FY 2002. Consequently, the special exceptions payments made in FY 2002 will be less than for subsequent years since they are only being paid a special exception payment for a portion of FY 2002.

Based on more recent data and HCRIS cost reports updated through March 2001, our modeling of special exception payments produced the following results:

| Cost report | Number of hospitals eligible for special exceptions | Special exceptions as a fraction of capital payments to all hospitals | Special exceptions as a fraction of capital payments to all hospitals weighted by portion of FY 2002 for which special exceptions are paid |
|---|---|---|---|
| PPS IX | ..... | ..... | ..... |
| PPS X | ..... | ..... | ..... |
| PPS XI | 3 | ..... | ..... |
| PPS XII | 6 | 0.0001 | 0.0001 |
| PPS XIII | 7 | 0.0001 | 0.0000 |
| PPS XIV | 14 | 0.0002 | 0.0001 |
| PPX XV | 17 | 0.0009 | 0.0002 |
| PPS XVI | 23 | 0.0009 | 0.0007 |

Currently, the PPS XVI cost reports in HCRIS are incomplete because there is a 2-year lag time between the end of a hospital's cost reporting period and the submission and processing of the cost reports for HCRIS. In particular, we have not received all the cost reports for hospitals whose cost reporting periods begin in July. We expect that more hospitals may qualify for special exceptions once data from later HCRIS updates are available. In addition, hospitals still have two more cost reporting periods (PPS XVII and PPS XVIII) to complete their projects in order to be eligible for special exceptions.

In the May 4, 2001 proposed rule (66 FR 22705), we estimated that about 30 additional hospitals could qualify for special exceptions. Based on more recent data, we still estimate that about 30 additional hospitals could qualify for special exceptions. Thus, we project that special exception payments as a fraction of capital payments to all hospitals is approximately 0.0025. However, after weighting this amount to account for the FY 2002 phase-in of special exception payments, we project that this factor is approximately 0.0012. These projections have not changed since the publication of the May 4, 2001 proposed rule (66 FR 22706). We received no comments on our proposed methodology for determining the special exceptions adjustment used in establishing the capital Federal rate. Because special exceptions are budget neutral, we will offset the Federal capital rate by 0.12 percent for special exceptions for FY 2002. Therefore, the final special exceptions adjustment factor is equal to 0.9988 (1–0.0012) to account for special exception payments in FY 2002.

*E. Provisions Relating to Capital Prospective Payments in the June 13, 2001 Interim Final Rule With Comment Period*

In the June 13, 2001 interim final rule with comment period, we implemented section 301(b) of Public Law 106–554 (66 FR 32176). Section 301(b) provides for a special rule for payment for the operating standardized amounts for hospitals other than SCHs for FY 2001. For discharges occurring on or after April 1, 2001, and before October 1, 2001, the update to the operating standardized amounts for hospitals other than SCHs is equal to the market basket percentage increase plus 1.1 percentage points. This provision amends the prior statutory 1.1 percent reduction to the update to the FY 2001 operating standardized amounts for hospitals other than SCHs as provided by section 4401(a)(1) of Public Law 105–33 and 406 of Public Law 106–113.

Section 1886(d)(3)(B) of the Act directs the Secretary to adjust the inpatient operating national standardized amounts to account for the estimated proportion of operating DRG payments made to payments in outlier cases. Accordingly, as a result of this change to the update to the operating standardized amounts for discharges occurring on or after April 1, 2001 and before October 1, 2001, we revised the fixed-loss outlier threshold. The regulations at § 412.312(c) establish a unified outlier methodology for inpatient operating and inpatient capital-related costs, which utilizes a single set of thresholds to identify outlier cases for both inpatient operating and inpatient capital prospective payment system payments.

Because operating DRG payments increased as a result of implementing section 301 of Public Law 106–554, the fixed-loss outlier threshold decreased, which resulted in an increase in estimated outlier payments. Thus, the capital national outlier adjustment factor was revised. Since the revision to the fixed-loss outlier threshold also affected total capital payments, the exceptions adjustment factor was also revised in order to maintain budget neutrality. The exceptions adjustment factor is determined based on an estimate of the ratio of exception payments to total capital payments. The GAF/DRG budget neutrality factor was also revised. We discuss the impact of changes to the rates and payments under the capital prospective payment system that result from implementation of section 301 of Public Law 106–554 in further detail in the Addendum of this final rule.

We did not receive any comments on the revised FY 2001 capital Federal rate for discharges occurring on or after April 1, 2001 and before October 1, 2001 as a result of implementing section 301(b) of Public Law 106–554.

## VI. Changes for Hospitals and Hospital Units Excluded From the Prospective Payment System

*A. Limits on and Adjustments to the Target Amounts for Excluded Hospitals and Units (§§ 413.40(b)(4) and (g))*

1. Updated Caps for Existing Hospitals and Units

Section 1886(b)(3) of the Act (as amended by section 4414 of Public Law 105–33) established caps on the target amounts for certain existing hospitals and units excluded from the prospective payment system for cost reporting periods beginning on or after October 1, 1997 through September 30, 2002. The caps on the target amounts apply to the following three classes of excluded hospitals: psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals.

In addition, section 4416 of Public Law 105–33 limited payments for

psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals that first received payments on or after October 1, 1997. Payment for these hospitals and units is limited to the lesser of the hospital's operating costs per case or 110 percent of the national median of target amounts for the same class of hospitals for cost reporting periods ending during FY 1996, updated and adjusted for differences in area wage levels.

A discussion of how the caps on the target amounts and the payment limitation were calculated can be found in the August 29, 1997 final rule with comment period (62 FR 46018); the May 12, 1998 final rule (63 FR 26344); the July 31, 1998 final rule (63 FR 41000), and the July 30, 1999 final rule (64 FR 41529). For purposes of calculating the caps for existing facilities, the statute required the Secretary to estimate the national 75th percentile of the target amounts for each class of hospital (psychiatric, rehabilitation, or long-term care) for cost reporting periods ending during FY 1996 without adjusting for differences in area wage levels. Under section 1886(b)(3)(H)(iii) of the Act, the resulting amounts are updated by the market basket percentage to the applicable fiscal year.

Section 121 of Public Law 106–113 amended section 1886(b)(3)(H) of the Act to also provide for an appropriate wage adjustment to the caps on the target amounts for existing psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals, effective for cost reporting periods beginning on or after October 1, 1999, through September 30, 2002. On August 1, 2000, we published an interim final rule with comment period that implemented this provision for cost reporting periods beginning on or after October 1, 1999 and before October 1, 2000 (65 FR 47026) and a final rule that implemented this provision for cost reporting periods beginning on or after October 1, 2000 (65 FR 47054). This final rule addresses the wage adjustment to the caps and payment limitations for cost reporting periods beginning on or after October 1, 2001 as proposed in the May 4, 2001 proposed rule.

For purposes of calculating the caps, section 1886(b)(3)(H)(ii) of the Act requires the Secretary to first ''estimate the 75th percentile of the target amounts for such hospitals within such class for cost reporting periods ending during fiscal year 1996.'' Furthermore, section 1886(b)(3)(H)(iii), as added by Public Law 106–113, requires the Secretary to also provide for existing hospitals ''an appropriate adjustment to the labor-related portion of the amount determined under such subparagraph to take into account the differences between average wage-related costs in the area of the hospital and the national average of such costs within the same class of hospital.''

Consistent with the broad authority conferred on the Secretary by section 1886(b)(3)(H)(iii) of the Act to determine the appropriate wage adjustment, we account for differences in wage-related costs by adjusting the caps to account for the following:

First, as stated in the May 4 proposed rule, we adjust each hospital's target amount to account for area differences in wage-related costs. For each class of hospitals (psychiatric, rehabilitation, and long-term care), we determine the labor-related portion of each hospital's FY 1996 target amount by multiplying its target amount by the actuarial estimate of the labor-related portion of costs (or 0.71553). Similarly, we determine the nonlabor-related portion of each hospital's FY 1996 target amount by multiplying its target amount by the actuarial estimate of the nonlabor-related portion of costs (or 0.28447).

Next, as we stated in the May 4 proposed rule, we account for wage differences among hospitals within each class by dividing the labor-related portion of each hospital's target amount by the hospital's wage index under the hospital inpatient prospective payment system. Within each class, each hospital's wage-neutralized target amount was calculated by adding the wage-neutralized labor-related portion of its target amount and the nonlabor-related portion of its target amount. Then, the wage-neutralized target amounts for hospitals within each class were arrayed in order to determine the national 75th percentile caps on the target amounts for each class.

Taking into account the national 75th percentile of the target amounts for cost reporting periods ending during FY 1996 (wage-neutralized using the FY 2000 acute care wage index), the wage adjustment provided for under Public Law 106–113, and the applicable update factor based on the market basket percentage increase for FY 2001, in the August 1, 2000 final rule (65 FR 47096), we established the FY 2001 caps on the target amounts as follows:

| Class of excluded hospital or unit | FY 2001 labor-related share | FY 2001 nonlabor-related share |
|---|---|---|
| Psychiatric ..... | $8,131 | $3,233 |
| Rehabilitation .... | 15,164 | 6,029 |
| Long Term Care | 29,284 | 11,642 |

In reviewing our methodology for wage neutralizing the hospital specific target amounts, it appears that we incorrectly used the FY 2000 hospital inpatient prospective payment system wage index published in Tables 4A and 4B of the July 30, 1999 final rule (64 FR 41585 through 41593), which is based on wage data after taking into account geographic reclassification under section 1886(d)(8) of the Act. As stated in the May 4 proposed rule, we are revising the methodology of wage neutralizing the hospital-specific target amounts using pre-reclassified wage data. We recalculate the limit for new excluded hospitals and units, as well as calculate the cap for existing excluded hospitals and units, using the pre-reclassification wage index. The pre-reclassification wage index is the same wage index used under the prospective payment system for skilled nursing facilities (SNFs) and was included in Table 7 of the July 30, 1999 SNF final rule (64 FR 41690). (We note that both SNFs and ambulatory surgical centers use the prospective payment system inpatient wage index without regard to the prospective payment system reclassification as a proxy for variations in local costs.)

As we stated in the August 1, 2000 final rule, long-term care hospitals, rehabilitation hospitals and units, and psychiatric hospitals and units that are exempt from the prospective payment system are not subject to the prospective payment system hospital reclassification system under section 1886(d)(10)(A) of the Act. This section establishes the MGCRB for the purpose of evaluating applications from short-term, acute care providers. There is no equivalent statutory mandate for HCFA to develop an alternative board for long-term care hospitals, psychiatric hospitals and units, and rehabilitation hospitals and units. In addition, while it would be feasible to allow units physically located in prospective payment system hospitals that have been reclassified by the MGCRB to use the wage index for the area to which that hospital has been reclassified, at the present time there is no process in place to make reclassification determinations for freestanding excluded providers. There are approximately 1,000 freestanding excluded providers. Therefore, in the interest of equity, we believe that, in determining a hospital's wage-adjusted

cap on its target amount, it is appropriate for excluded hospitals and units to use the wage index associated with the area in which they are physically located (MSA or rural area) and the prospective payment system reclassification under section 1886(d)(10) of the Act is not applicable. This policy is also consistent with the policy for SNFs and ambulatory surgical centers that use the acute care, inpatient hospital prospective payment system wage index and that does not allow for reclassifications since there is no analogous determinations process to the MGCRB. The MGCRB only has authority over the prospective payment system for acute care hospitals.

Therefore, based on the broad authority conferred on the Secretary by section 1886(b)(3)(H)(iii) of the Act to determine the appropriate wage adjustment to the caps, we have determined the labor-related and nonlabor-related portions of the caps on the target amounts for FY 2002 using the methodology outlined above.

| Class of excluded hospital or unit | FY 2001 labor-related share | FY 2001 nonlabor-related share |
|---|---|---|
| Psychiatric ..... | $8,429 | $3,351 |
| Rehabilitation .... | $15,736 | $6,256 |
| Long-Term Care | $31,490 | $12,519 |

These labor-related and nonlabor-related portions of the caps on the target amounts for FY 2002 are based on the current estimate of the market basket increase for excluded hospitals and units for FY 2002 of 3.3 percent and reflect the change in applying the pre-reclassified hospital inpatient prospective payment system wage index as discussed above. Furthermore, in accordance with section 307(a) of Public Law 106–554, which amended section 1886(b)(3) of the Act, the labor-related and nonlabor-related portions of the cap for long-term care hospitals for FY 2002 are increased by 2 percent. A further discussion of this provision as it appeared in the June 13, 2001 interim final rule with comment period (66 FR 32181) that will implement provisions of Public Law 106–554 for FY 2001 and for periods in FY 2001 from April 1, 2001 through September 30, 2001, appears in section VI.A.4. of this preamble.

Finally, to determine payments described in § 413.40(c), the cap on the hospital's target amount per discharge is determined by adding the hospital's nonlabor-related portion of the national 75th percentile cap to its wage-adjusted, labor-related portion of the national 75th percentile cap. A hospital's wage-adjusted, labor-related portion of the target amount is calculated by multiplying the labor-related portion of the national 75th percentile cap for the hospital's class by the hospital's applicable wage index. For FY 2002, a hospital's applicable wage index is the pre-reclassified wage index under the hospital inpatient prospective payment system (see § 412.63). The wage index values are computed based on the same data used to compute the FY 2002 wage index values for the hospital inpatient prospective payment system without taking into account changes in geographic reclassification under the following: Section 1886(d)(8)(B) of the Act for certain rural hospitals; section 401 of Public Law 106–113; reclassifications based on MGCRB decisions; or the Secretary's decisions under sections 1886(d)(8) through (d)(10) of the Act. For cost reporting periods beginning on or after October 1, 2001 and before October 1, 2002, the pre-reclassified wage index is in Tables 4G and 4H of this final rule. A hospital's applicable wage index corresponds to the area in which the hospital or unit is physically located (MSA or rural area).

2. New Excluded Hospitals and Units

a. Updated Caps (§ 413.40(f))

Section 1886(b)(7) of the Act establishes a payment methodology for new psychiatric hospitals and units, new rehabilitation hospitals and units, and new long-term care hospitals. Under the statutory methodology, for a hospital that is within a class of hospitals specified in the statute and first receives payments as a hospital or unit excluded from the prospective payment system on or after October 1, 1997, the amount of payment will be determined as follows: For the first two 12-month cost reporting periods, the amount of payment is the lesser of (1) the operating costs per case; or (2) 110 percent of the national median of target amounts for the same class of hospitals for cost reporting periods ending during FY 1996, updated to the first cost reporting period in which the hospital receives payments as adjusted for differences in area wage levels.

As discussed earlier, in reviewing our methodology for wage neutralizing the hospital-specific target amounts, it appears we incorrectly used the FY 2000 hospital inpatient prospective payment system wage index published in Tables 4A and 4B of the July 30, 1999 final rule, which is based on wage data after taking into account geographic reclassifications under section 1886(d)(8) of the Act. Therefore, as we proposed in the May 4 proposed rule, we also are revising the methodology of wage neutralizing the hospital-specific target amounts using pre-reclassified wage data in our calculation of the limit for new excluded hospitals and units.

The amounts included in the following table reflect the updated and recalculated 110 percent of the wage neutralized national median target amounts for each class of excluded hospitals and units for cost reporting periods beginning during FY 2002. These figures are updated to reflect the projected market basket increase of 3.3 percent. For a new provider, the labor-related share of the target amount is multiplied by the appropriate geographic area wage index, without regard to prospective payment system reclassifications, and added to the nonlabor-related share in order to determine the per case limit on payment under the statutory payment methodology for new providers.

| Class of excluded hospital or unit | FY 2002 labor-related share | FY 2002 nonlabor-related share |
|---|---|---|
| Psychiatric ..... | $6,815 | $2,709 |
| Rehabilitation .... | $13,465 | $5,353 |
| Long-Term Care | $16,701 | $6,640 |

b. Changes in Type of Hospital Classification (§§ 412.23 and 412.25)

Section 1886(b)(3) of the Act (as amended by section 4414 of Public Law 105–33) establishes caps on the target amounts for existing psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals for cost reporting periods beginning on or after October 1, 1997 through September 30, 2002. Section 4416 of Public Law 105–33 amended section 1886(b)(7) of the Act to provide for a limitation on payment for new excluded psychiatric hospitals and units, new rehabilitation hospitals and units, and new long-term care hospitals. Since the establishment of the caps on target amounts and the payment limitations, there has been an increase in the number of hospitals requesting a change from one classification type to another (for example, from rehabilitation to long-term care). Regulations at § 412.22(d) state that ''For purposes of exclusion from the prospective payment systems under this subpart, the status of each currently participating hospital (excluded or not excluded) is determined at the beginning of each cost reporting period and is effective for the entire cost reporting period. Any changes in the status of the hospital are made only at the start of a cost reporting period.''

Even though the existing regulations directly address only a hospital that changes from a prospective payment system hospital to an excluded hospital, our longstanding policy has been that a change of any classification type can be effective only at the beginning of the provider's cost reporting period. As we stated in the May 4 proposed rule, although the existing regulations do not directly address changes in a classification type of excluded hospital, we believe that a change from one classification type of excluded hospital to another type of excluded hospital is analogous to a change from a prospective payment system hospital to an excluded hospital. Therefore, based on our belief that it would be consistent with our longstanding policy, we proposed to amend our regulations to specify that a change from one excluded hospital classification type to another type is allowed only at the beginning of the hospital's cost reporting period.

The rationale underlying our present policy of requiring that these types of changes should only be effective at the beginning of the cost reporting period is the need to avoid any undue (and possibly significant) administrative burden that could result from doing otherwise (for example, cost allocation, cost reporting requirements, certification issues). If we were to accept changes in an excluded hospital's classification type from one type of classification to another, other than at the beginning of the cost reporting period, the hospital would need to file a terminating cost report with respect to its original classification as well as file a separate cost report for the remainder of the cost reporting period with respect to its new classification. Filing these cost reports would involve gathering the appropriate cost data, allocating the data, and apportioning the data between the two hospital classes. Additionally, we would have to validate the cost reports. To allow these types of changes in the middle of a cost reporting period would result in a significant administrative burden. We point out that this burden is applicable equally for either a change from a prospective payment system hospital to an excluded hospital, or a change from one excluded hospital classification type to another classification type. Therefore, as we proposed in the May 4 proposed rule, we are amending the regulations to provide that the effective date of any of these classification changes is only at the beginning of a provider's cost reporting period (§ 412.23(i), for excluded hospitals, and § 412.25(f), for excluded units).

We did not receive any public comments on our proposed revisions of §§ 412.23(i) and 412.25(f). Therefore, we are adopting the proposed revisions as final.

3. Effective Date of Exclusion of Long-Term Care Hospitals

Existing regulations at § 412.23(e) require a newly established long-term care hospital to operate for at least 6 months with an average length of stay in excess of 25 days in order to qualify for exclusion from the inpatient hospital prospective payment system as a long-term care hospital. Other regulations at § 412.22(d) allow changes in a hospital's status from not excluded to excluded to occur only at the start of a cost reporting period. These two regulations, taken together, typically require a hospital to operate for at least 6 months under the prospective payment system before becoming eligible for payment at the more favorable rate under section 1886(b)(3) of the Act.

These regulations were challenged in litigation by a chain organization that operates a large number of long-term care hospitals (*Transitional Hospitals Corporation of Louisiana, Inc.* v. *Shalala*, 222 F.3d 1019 (D.C. Cir. 2000) (*THC*)). Although the court of appeals in this case found that the Secretary has ample authority to adopt current regulatory provisions, it also concluded that the Secretary could have considered other policy options. Consequently, it remanded the case to the agency for the agency to consider whether it wanted to continue its existing policy or adopt a policy of either ''self-certification'' or ''retroactive adjustment.'' Generally, under a self-certification approach, hospitals that have not yet demonstrated the required average length of stay would be excluded from the prospective payment system based on a commitment to maintain such a length of stay. Under a retroactive adjustment approach, a hospital's long-term care classification would be made effective with the beginning of the 6-month period in which it demonstrated the required average length of stay. Payments for that period initially would be made under the prospective payment system and then adjusted retroactively to amounts payable for an excluded long-term care hospital once length of stay was successfully established.

As directed by the court of appeals, we reviewed the issues raised in this case in light of the court's decision, and specifically considered the options of self-certification and retroactive adjustment. Our proposals, and the alternatives we considered before arriving at them, are explained in detail in the May 4, 2001 proposed rule (66 FR 22708) and summarized below.

Although we understood that we have discretion to select other policy options, we proposed to continue our policy of requiring hospitals seeking long-term care hospital classification to demonstrate the required average length of stay based on 6 months of data, instead of permitting these hospitals to ''self-certify'' the required average length of stay.

We noted that the statute provides the agency with broad authority to determine the methodology by which facilities can qualify for exclusion as long-term care hospitals (section 1886(d)(1)(B)(iv)(I) of the Act specifies that ''a hospital which has an average inpatient length of stay (as determined by the Secretary) of greater than 25 days'' qualifies for exclusion as a long-term care hospital). As the court of appeals decided, the parenthetical phrase *as determined by the Secretary* ''gives the Secretary considerable leeway to determine whether to require prospective, contemporaneous, or retrospective evaluation and payment.'' (*THC* at 1026.)

Having proposed to continue our policy of not allowing a hospital to self-certify the required average length of stay in order to be paid as an excluded long-term care hospital, we also considered the effective date of excluded status for a hospital that has demonstrated the required average length of stay. We considered making long-term care classification effective retroactively with the beginning of the 6-month period in which the hospital demonstrated the required average length of stay. However, we believe that such retroactive application of excluded status is inappropriate.

Therefore, we proposed to continue our policy that a hospital's payment as a long-term care hospital would be effective with the beginning of the hospital's cost reporting period that follows the determination to classify the hospital as a long-term care hospital.

*Comment:* One commenter expressed general approval of the policies set forth in the May 4 proposed rule, stating that hospitals seeking long-term care status should be required to demonstrate the required length of stay based on 6 months of data.

*Response:* We appreciate the support of the commenter for our proposed policy.

*Comment:* Another commenter disagreed with our proposed policy and requested that we reconsider it. This commenter stated that our proposals were inconsistent with the purpose of

the prospective payment system exclusion, resulted in disparate treatment of similarly situated providers, and produced inappropriate reimbursement shortfalls. The commenter also argued that our reliance on the general prospective nature of the prospective payment system was misplaced and inconsistent with our regulations.

*Response:* We have examined the commenter's contentions in detail but have concluded that they do not warrant adoption of a policy different from the one we have proposed. First, we disagree that our proposal is inconsistent with the purpose of the long-term care hospital exclusion. We agree with the commenter that the purpose of the exclusion is to ensure adequate reimbursement to hospitals that treat long-stay patients. However, the question addressed by our proposed policy is how to determine which providers meet the criteria for being considered hospitals that treat such patients. We believe that our proposed policy is the most appropriate methodology for making this determination. We believe that our proposed policy furthers the purpose of the exclusion by ensuring that only hospitals that can demonstrate compliance with the statutorily required length of stay receive long-term care hospital status. It also ensures that decisions granting such status are implemented in accordance with the general goals of the prospective payment system and our longstanding policies regarding the effective dates of changes in the various components of providers' prospective payment system payment rates.

Second, we do not agree with the commenter's contention that our proposed policy results in disparate treatment of similarly situated providers because we allow rehabilitation hospitals to self-certify that they will meet certain aspects of the criteria for exclusion but do not allow long-term care hospitals to do so. We dealt with this issue at length in the May 4 proposed rule and explained there that the differences in the nature of the two types of facilities, and the differences in their statutory and regulatory definitions, justified their varying treatment for these purposes. The commenter's assertion that the self-certification option that is permitted as to rehabilitation facilities and the same type of option that is not permitted as to long-term care hospitals both relate to the types of patient to be admitted—even if true in some general sense—is not sufficient in our view to overcome the clear differences in the two types of facilities that informs our different treatment of them.

Similarly, the fact that long-term care hospitals must meet a series of regulatory conditions of participation does not make them sufficiently similar to rehabilitation hospitals so as to make the use of self-certification by long-term care hospitals appropriate, as the commenter suggested. All hospitals must meet conditions of participation to participate in the Medicare program. However, that does not change the fact that, as pointed out in the May 4 proposed rule, the statute itself requires that a hospital meet the length of stay criterion to qualify as a long-term care hospital, while the statute grants the Secretary broad authority to promulgate various criteria for a hospital to qualify as a rehabilitation hospital. It is the additional certainty supplied by the additional criteria for status as a rehabilitation hospital under this authority that has led us to allow rehabilitation hospitals to self-certify that they will comply with the remaining criterion. Such certainty is lacking in the case of long-term care hospitals, since the length-of-stay criterion is extremely difficult to predict into the future at any particular point in time.

Conditions of participation exist as a matter of Medicare survey and certification activities to ensure that the provider meets the requirements of participation in the program, not as definitional criteria that establish a hospital's status for payment purposes. As a result, they do not provide the type of additional certainty that derives from the nature and number of rehabilitation hospital criteria and that might warrant allowing long-term care facilities to self-certify that they will meet the required average length of stay. The commenter also pointed out that there are various criteria in § 412.22(e) that a facility must meet to qualify as a hospital within a hospital. However, the existence of these criteria does not alter the fact that a hospital must meet the statutory length-of-stay criterion in order to qualify as a long-term care hospital, making self-certification by such a hospital inappropriate.

The commenter suggested that, if we reject its suggestion to allow self-certification by long-term care hospitals, we should then adopt a policy whereby we would pay a long-term care hospital provisionally under the prospective payment system during its initial cost reporting period; evaluate compliance with the length-of-stay requirement at the end of that period; and, if the requirement had been met, retroactively adjust its reimbursement to provide for payment on a reasonable cost basis. We do not agree with the commenter that such a scheme would result in no significant administrative burden because the retroactive adjustments could be made as part of the cost report review process. Whether performed as part of this process or not, the scheme the commenter suggested would result in just the type of burden that has generally led to our making changes in components of the prospective payment system rates prospective only, as noted in the May 4 proposed rule. As also noted in the proposed rule, such prospective only changes are consistent with our approach, validated by the courts in cases like *THC, Methodist Hospital of Sacramento*, and *County of Los Angeles*, of balancing absolute accuracy and finality and favoring the latter in the context of the prospective payment system. We find nothing in the commenter's suggestions on this point that persuades us to depart from our intention to adopt our proposed policy.

Third, we disagree with the commenter's statement that our proposed policy produces inappropriate reimbursement shortfalls. To the contrary, as noted above, our policy is designed to identify those hospitals that qualify for appropriate payment as long-term care facilities, in accordance with principles of prospectivity that have been approved by the courts. Although the commenter stated that Congress did not intend for us to require that new long-term care hospitals wait at least 6 months before being excluded from the hospital inpatient prospective payment system, the court of appeals in *THC* specifically found that the Medicare statute did not preclude just such a policy. We also note that, while the policy described in the May 4 proposed rule is one of longstanding, Congress has never seen fit to amend the statute to require us to implement long-term care exclusions immediately upon a new hospital's participation in the program.

Finally, we do not agree with the commenter that our reliance on the prospective nature of the prospective payment system in arriving at our proposed policy is misplaced or that the policy conflicts with our regulations. As to the former point, as noted above, we believe that the court decisions in *THC, Methodist Hospital of Sacramento*, and *County of Los Angeles* directly support the adoption of our proposed policy. We do not find the commenter's analyses of these cases persuasive. They cannot be distinguished on the basis that they apply to hospitals paid under the hospital inpatient prospective payment system but not to hospitals excluded

from the prospective payment system, as the commenter suggested. Making the determination whether a hospital is excluded from or subject to the hospital inpatient prospective payment is an important part of implementing the prospective payment system payment methodology, and, like other aspects of that implementation, should be guided by the general principles underlying the prospective payment system. That is especially so since the ''default'' payment mode for acute care hospitals is payment subject to the hospital inpatient prospective payment system, and reasonable cost payment does not result until it is determined (again, as part of administering the prospective payment system) that the hospital's status should change to excluded status.

Moreover, while the court of appeals in *Methodist Hospital* may have stated that retroactive corrections are not necessarily inconsistent with the hospital inpatient prospective payment system, all three cases stand for the proposition that neither is the agency's prospective only policy inconsistent with the statute. Indeed, that is largely the point of the court of appeals' decision in *THC*—that the agency has broad statutory authority to adopt retroactive, contemporaneous, or prospective application of decisions granting long-term care status. For the reasons set out in the May 4 proposed rule and in this final rule, we have elected the latter policy. The policy at issue here is thus quite different from the one at issue in *Georgetown University Hospital* v. *Bowen*, 862 F.2d 323 (D.C. Cir.1988), which the commenter also cited, because the court of appeals held that that policy was contrary to express Congressional intent.

Nor is our proposed policy contrary to our regulations. The only regulations that the commenter cited in support of this point are those that implement the statutory requirement that a hospital cost report be subject to retroactive adjustment upon review by the intermediary after the close of the applicable cost reporting period. However, those regulations, and the statutory provisions they implement, merely establish a year end ''book-balancing'' process to reconcile the amount of estimated payments made to the provider during the year with the actual amount of reimbursement the provider is due for that year, determined in accordance with the methods prescribed by the agency. Among those methods is prospective only application of the prospective payment system status decisions. These regulations then are in no way inconsistent with our proposed policy.

4. Payment for Long-Term Care Hospital Costs: Provisions of the June 13, 2001 Interim Final Rule with Comment Period (Section 307 of Public Law 106–554 and 42 CFR 413.40(c)(4))

a. Increase in the Limitation on the Target Amounts for Long-Term Care Hospitals

As stated in the June 13 interim final rule with comment period (66 FR 32181), in the August 29, 1997 final rule with comment period (62 FR 46018), in accordance with section 4414 of Public Law 105–33, we implemented section 1886(b)(3)(H) of the Act, which provides for caps on the target amounts for existing and new excluded hospitals and units for cost reporting periods beginning on or after October 1, 1997, through September 30, 2002. The caps on the target amounts apply to three classes of excluded hospitals: psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals. In establishing the caps on the payment amounts within each class of hospital for *new* hospitals, section 1886(b)(7)(C) of the Act, as amended by section 4416 of Public Law 105–33, instructed the Secretary to provide an appropriate adjustment to take into account area differences in average wage-related costs. However, because the statutory language under section 4414 of Public Law 105–33 did not provide for the Secretary to adjust for area differences in wage-related costs in establishing the caps on the target amounts within each class of hospital for *existing* hospitals, we did not adjust for wage-related differences for existing facilities. In the August 1, 2000 interim final rule with comment period (65 FR 47039), we implemented section 121 of Public Law 106–113, which further amended section 1886(b)(3)(H) of the Act by directing the Secretary to provide for an appropriate wage adjustment to the caps on the target amounts for *all* psychiatric hospitals and units, rehabilitation hospitals and units and long-term care hospitals, effective for cost reporting periods beginning on or after October 1, 1999, through September 30, 2002. For purposes of calculating the caps, section 1886(b)(3)(H)(ii) of the Act requires the Secretary to first ''estimate the 75th percentile of the target amounts for such hospitals within such class for cost reporting periods ending during fiscal year 1996.'' Section 1886(b)(3)(H)(iii) of the Act, as added by section 121 of Public Law 106–113, requires the Secretary to provide for ''an appropriate adjustment to the labor-related portion of the amount determined under such subparagraph to take into account differences between average wage-related costs in the area of the hospital and the national average of such costs within the same class of hospital.''

The August 1, 2000 final rule (65 FR 47096) listed the FY 2001 labor-related share and nonlabor-related share of the national 75th percentile wage-neutralized cap for long-term care hospitals as follows:

- Labor-related Share: $29,284
- Nonlabor-related Share: $11,642

The final rule also discussed that within each class a hospital's wage-adjusted cap on its target amount is determined by adding the hospital's nonlabor-related portion of the national wage-neutralized cap to its wage-adjusted labor-related portion of the national wage-neutralized cap. A hospital's wage-adjusted labor-related portion is calculated by multiplying the labor-related portion of the national wage-neutralized 75th percentile cap for the hospital's class by the hospital's applicable wage index. For FY 2001, a hospital's applicable wage index is the wage index under the hospital inpatient prospective payment system as shown in Tables 4A and 4B of the August 1, 2000 final rule (65 FR 47149 through 47156) corresponding to the area in which the hospital is physically located (MSA or rural area).

Section 307(a) of Public Law 106–554 further amended section 1886(b)(3) of the Act and provides for a 2-percent increase to the wage-adjusted 75th percentile cap on the target amount for long-term care hospitals effective for cost reporting periods beginning during FY 2001. This provision is only applicable to long-term care hospitals that were subject to the cap for existing excluded providers as specified in § 413.40(c).

In accordance with section 1886(b)(3) of the Act as amended, for cost reporting periods beginning during FY 2001, in the June 13 interim final rule with comment period, we specified the following revised labor-related and nonlabor-related shares of the cap on the target amount for long-term care hospitals, which reflect the 2-percent increase:

REVISED FY 2001 NATIONAL CAP FOR LONG-TERM CARE HOSPITALS

| FY 2001 labor-related share | FY 2001 nonlabor-related share |
|---|---|
| $29,870 | $11,875 |

Note that the national 75th percentile wage-neutralized caps on the target amount for the other excluded hospitals and units subject to the caps under section 1886(b)(3)(H) of the Act (psychiatric and rehabilitation) are not affected by section 307 of Public Law 106–554. In the June 13 interim final rule with comment period, we revised the regulations at § 413.40(c)(4)(iii) to incorporate this change.

We did not receive any public comments on our proposed revision of § 413.40(c)(4)(iii) to incorporate this provision of the statute and, therefore, are adopting it as final.

b. Increase in the Target Amounts for Long-Term Care Hospitals

As stated in the June 13, 2001 interim final rule with comment period (66 FR 32181), in the August 29, 1997 final rule with comment period (62 FR 46016) we implemented the amendment to section 1886(b)(3)(B) of the Act, as made by section 4411 of Public Law 105–33, which set forth the applicable rate-of-increase percentage for cost reporting periods beginning during FY 1999 through FY 2002. The rate-of-increase is equal to the market basket increase percentage minus an amount based on the percentage by which the hospital's operating costs exceed the hospital's ceiling for the most recent available cost reporting period. The applicable rate-of-increase percentages (update factors) for FY 2001 are described in the August 1, 2000 final rule (65 FR 47125). For FY 2001, the market basket increase percentage was forecast at 3.4 percent, which results in an update for long-term care hospitals for FY 2001 of between 0.9 percent and 3.4 percent, or 0 percent, depending on the hospital's costs in relation to its rate-of-increase limit.

In addition to the increase to the cap on the target amounts for long-term care hospitals, section 307(a) of Public Law 106–554 also amended section 1886(b)(3) of the Act to provide for a 25-percent increase to the target amounts determined under section 1886(b)(3)(A) of the Act for long-term care hospitals, for cost reporting periods beginning in FY 2001, subject to the applicable cap on the target amounts. Thus, this provision required a revision to the determination of each long-term care hospital's FY 2001 target amount as specified in § 413.40(c)(4). As stated in the June 13 interim final rule with comment period, for cost reporting periods beginning during FY 2001, the hospital-specific target amount otherwise determined for a long-term care hospital as specified in the regulations at § 413.40(c)(4)(ii) is multiplied by 1.25 (that is, increased by 25 percent), subject to the limitation that the revised FY 2001 target amounts for a long-term care hospital cannot exceed its wage-adjusted national cap as required by section 1886(b)(3) of the Act, as amended by section 307(a) of Public law 106–554. We noted that the 25-percent increase to the target amount under section 307(a) of Public Law 106–554 is applicable only to long-term care hospitals, and not to other excluded hospitals as defined in section 1886(d)(1)(B) of the Act (psychiatric and rehabilitation hospitals and units, children's and cancer hospitals).

In the June 13, 2001 interim final rule with comment period, we revised the regulations at § 413.40(c)(4)(iii) to incorporate this change.

We did not receive any public comments on this revision of § 413.40(c)(4)(iii) to incorporate this provision of the statute and, therefore, are adopting it as final.

5. Development of Prospective Payment System for Inpatient Rehabilitation Hospitals and Units

Section 1886(j) of the Act, as added by section 4421 of Public Law 105–33, provided the phase-in of a case-mix adjusted prospective payment system for inpatient rehabilitation services (freestanding hospitals and units) for cost reporting periods beginning on or after October 1, 2000 and before October 1, 2002, with a fully implemented system for cost reporting periods beginning on or after October 1, 2002. Section 1886(j) of the Act was amended by section 125 of Public Law 106–113 to require the Secretary to use the discharge as the payment unit under the prospective payment system for inpatient rehabilitation services and to establish classes of patient discharges by functional-related groups. Section 305 of Public Law 106–554 further amended section 1886(j) of the Act to allow hospitals to elect to be paid the full Federal prospective payment rather than the transitional period payments specified in the Act.

Shortly, we will be issuing a final rule on the establishment of the prospective payment system for inpatient rehabilitation facilities, to be effective January 1, 2002.

6. Increase in the Incentive Payment for Excluded Psychiatric Hospitals and Units: Provision of the June 13, 2001 Interim Final Rule with Comment Period (Section 306 of Public Law 106–554 and 42 CFR 413.40(d)(2))

As we stated in the June 13 interim final rule with comment period (66 FR 32181), for cost reporting periods beginning before October 1, 1997, a hospital that had inpatient operating costs less than, or equal to, its ceiling was paid its costs plus the lower of 50 percent of the difference between inpatient operating costs and the ceiling or 5 percent of the ceiling. Section 4415 of Public Law 105–33 amended section 1886(b)(1)(A) of the Act to provide that for cost reporting periods beginning on or after October 1, 1997, if a hospital's net inpatient operating costs are less than or equal to, the ceiling, the amount of the bonus payment would be the lower of 15 percent of the difference between the inpatient operating costs and the ceiling or 2 percent of the ceiling. Section 306 of the Public Law 106–554 further amended section 1886(b)(1)(A) of the Act, as it applied to a psychiatric hospital or unit, to provide that effective for cost reporting periods beginning on or after October 1, 2000, and before October 1, 2001, if a psychiatric hospital or unit's net inpatient operating costs are less than, or equal to, the ceiling, the amount of the bonus payment is the lower of 15 percent of the difference between the inpatient operating costs and the ceiling, or 3 percent of the ceiling.

In the June 13 interim final rule with comment period, we revised the regulations at § 413.40(d)(2) to incorporate this change.

We did not receive any public comments on our revision to § 413.40(d)(2) in the interim final rule with comment period to incorporate this provision of the statute and, therefore, are adopting it as final.

7. Changes in the Types of Patients Served or Inpatient Care Services That Distort the Comparability of a Cost Reporting Period to the Base Year are Grounds for Requesting an Adjustment Payment in Accordance with Section 1886(b)(4) of the Act

Section 4419(b) of Public Law 104–33 requires the Secretary to publish annually in the **Federal Register** a report describing the total amount of adjustment (exception) payments made to excluded hospitals and units, by reason of section 1886(b)(4) of the Act, during the previous fiscal year. However, the data on adjustment payments made during the previous fiscal year are not available in time to publish a report describing the total amount of adjustment payments made to all excluded hospitals and units in the subsequent year's final rule published in the **Federal Register**.

The process of requesting, adjudicating, and awarding an adjustment payment for a given cost reporting period occurs over a 2-year

period or longer. An excluded hospital or unit must first file its cost report for the previous fiscal year with its intermediary within 5 months after the close of the previous fiscal year. The fiscal intermediary then reviews the cost report and issues a Notice of Program Reimbursement (NPR) in approximately 2 months. If the hospital's operating costs are in excess of the ceiling, the hospital may file a request for an adjustment payment within 6 months from the date of the NPR. The intermediary, or CMS, depending on the type of adjustment requested, then reviews the request and determines if an adjustment payment is warranted. This determination is often not made until more than 6 months after the date the request is filed. Therefore, it is not possible to provide data in a final rule on adjustments granted for cost reports ending in the previous Federal fiscal year, since those adjustments have not even been requested by that time. However, in an attempt to provide interested parties at least some relevant data on adjustments, we are publishing data on requests for adjustments that were processed by the fiscal intermediaries or CMS during the previous Federal fiscal year.

The table below includes the most recent data available from the intermediaries and CMS on adjustment payments that were adjudicated during FY 2000. By definition, these were for cost reporting periods ending in years prior to FY 1999. The total adjustment payments awarded to excluded hospitals and units during FY 2000 are $12,344,419. The table depicts for each class of hospital, in aggregate, the number of adjustment requests adjudicated, the excess operating cost over the ceiling, and the amount of the adjustment payment.

| Class of hospital | Number | Excess cost over ceiling | Adjustment payment |
|---|---|---|---|
| Psychiatric | 40 | $19,172,613 | $9,114,944 |
| Rehabilitation | 8 | 6,128,515 | 2,254,393 |
| Long-Term Care | 3 | 827,821 | 814,971 |
| Children's | 1 | 160,111 | 160,111 |

*B. Critical Access Hospitals (CAHs)*

Section 4201 of Public Law 105–33 amended section 1820 of the Act to create a nationwide Medicare Rural Hospital Flexibility (MRHF) Program to replace the 7-State Essential Access Community Hospital/Rural Primary Care Hospital (EACH/RPCH) program. Under section 1820(c)(2) of the Act, as amended, a State could designate certain rural hospitals as CAHs if they were located a specified distance from other hospitals, made 24-hour emergency care available, and kept inpatients for a limited period of time. Additionally, CAH staffing requirements differed from those of other hospitals under Medicare and CAHs received payment for inpatient and outpatient services on the basis of reasonable cost. A comprehensive discussion of CAHs within the context of the MRHF Program may be found in the August 29, 1997 **Federal Register** (62 FR 45970 and 46008–46010).

1. Permitting Certain Facilities to be Designated as CAHs (Section 401(b) of Public Law 106–113 and 42 CFR 485.610)

As discussed in the August 1, 2000 interim final rule with comment period, one of the threshold criteria for designation as a CAH under section 1820(c)(2)(B)(i) of the Act is that the hospital must be rural as defined in section 1886(d)(2)(D)(ii) of the Act. Section IV.A. of the interim final rule with comment period discussed the option of urban to rural classification for a ''subsection (d)'' hospital authorized by section 401(a) of Public Law 106–113 under an amendment to section 1886(d)(8) of the Act. Section 401(b)(2) of Public Law 106–113 amended section 1820(c)(2)(B) of the Act to authorize a State to designate a hospital in an urban area as a CAH if, under one of the criteria set forth in section 1886(d)(8)(E) of the Act, it would be treated as being located in the rural area of the State in which the hospital is located. Section 401(b)(2) only provides authority for a hospital to meet the rural requirement. We note that the hospital would have to otherwise meet the statutory and regulatory requirements governing CAH designation.

The first criteria in section 401(a) specified that a hospital will be treated as located in a rural area if the hospital is located in a rural census tract of an MSA, as determined under the most recent Goldsmith Modification, originally published in the **Federal Register** on February 27, 1992. In Appendix B of the August 1, 2000 interim final rule with comment period, we published a listing of existing hospitals that may qualify as CAHs because they are located in Goldsmith areas.

In the August 1, 2000 interim final rule, we specified that the application procedures and effective dates for an urban hospital seeking to reclassify as rural in order to apply for CAH status under section 1820(c)(2)(B)(i) of the Act were set forth in new § 412.103 that implements section 401(a), and discussed in section IV.C. of that interim final rule with comment period (65 FR 47041). In the August 1 interim final rule with comment period, we revised the regulations on location for CAHs at § 485.610(b) to reflect this amendment.

We did not receive any comments on the revised section of the regulations in the interim final rule with comment period and have not made any further changes to it.

2. Exclusion of CAHs From Payment Window Requirements

Section 1886 of the Act specifies the requirements governing payment to full-service hospitals for the operating costs of inpatient hospital services under both the inpatient hospital prospective payment system and the limits on the target amounts for hospitals excluded from the prospective payment system. ''Operating costs of inpatient hospital services'' are defined in section 1886(a)(3) of the Act, which provides in part that costs of certain services provided to a beneficiary during the 3 days (or in the case of an excluded hospital or unit, during the 1 day) immediately preceding the patient's admission are to be included in the payments for costs under the inpatient hospital prospective payment system, or costs subject to the target amount for excluded hospitals and units. This part of the definition is sometimes referred to as the ''payment window'' requirement. Regulations implementing the payment window requirement are found at § 412.2(c)(5) for hospitals subject to the prospective payment system, and § 413.40(c)(2) for hospitals excluded from the prospective payment system.

As we stated in the May 4, 2001 proposed rule, payment to CAHs for inpatient services is not made under the

inpatient hospital prospective payment system mandated by section 1886 of the Act, nor are CAHs considered to be hospitals excluded from the inpatient hospital prospective payment system. Instead, payment is made on a reasonable cost basis, as mandated by section 1814(l) of the Act. Neither section 1814(l) nor section 1861(v) of the Act (which defines ''reasonable cost'') requires application of the payment window to services furnished on an outpatient basis immediately before admission to a CAH. Therefore, we stated in the May 4 proposed rule that we have determined that the payment window provision does not apply to CAHs. To clarify this point and avoid possible misapplication of the payment window, we proposed to amend § 413.70(a)(l) to provide that the requirements of §§ 412.2(c)(5) and 413.40(c)(2) do not apply to CAHs.

*Comment:* Several commenters expressed support for the proposal to explicitly exclude CAHs from the payment window requirements. None of the commenters opposed the proposal or suggested changes to it.

*Response:* We appreciate the commenters' support and are adopting the proposed regulation amendments as final.

3. Availability of CRNA Pass-Through for CAHs

Generally, anesthesia services furnished to a hospital patient by a certified registered nurse anesthetist (CRNA) must be billed to the Part B carrier and payment is made under the applicable fee schedule provisions of § 414.60. However, certain rural hospitals that furnish no more than 500 surgical procedures requiring anesthesia per year and meet other specified requirements are exempted from the fee schedule. These hospitals are paid on a reasonable cost basis for their costs of anesthesia services furnished by qualified nonphysician anesthetists. The exemption is provided in accordance with section 9320(k) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509) (as added by section 608(c)(2) of the Family Support Act of 1988 (Public Law 100–185), as amended by section 6132 of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239)). We have codified this exemption at § 412.113(c).

We pointed out in the May 4 proposed rule that, although § 412.113(c) does not specifically extend eligibility for the pass-through payment for CRNAs to CAHs, some CAHs have pointed out that they are similar to the rural hospitals that are eligible for this payment, in that they also furnish low volumes of surgical procedures requiring anesthesia and could face the same problem of potentially inadequate payment for CRNA services if they are not allowed to qualify for the pass-through payment. We share this concern.

We recognize that the legislation cited above, which provides the legal basis for the pass-through payments, refers only to ''hospitals,'' not to CAHs. Moreover, section 1861(e) of the Act states that ''the term ''hospital'' does not include, unless the context otherwise requires, a critical access hospital * * *.'' It is clear from section 1861(e) of the Act that CAHs are not to be considered hospitals under the Medicare law for most purposes. However, the reference to ''context'' in the provision indicates that CAHs may be classified as hospitals where, in specific contexts, it would be consistent with the purpose of the legislation to do so.

We stated that we believe this is the case with the statutory provisions authorizing pass-through payments for CRNA costs. The purpose of the pass-through legislation is to provide small rural hospitals with low surgical volumes with relief from the difficulties they might otherwise have in furnishing CRNA services for their patients. CAHs are by definition limited-service facilities located in rural areas and, as such, they serve a population much like those served by hospitals eligible for the pass-through payments. In some cases, an institution that now participates as a CAH may even have been eligible for the pass-through payments when it participated as a hospital. Such an institution would clearly be disadvantaged if it were to lose this status. Thus, in accordance with section 1861(e) of the Act and in light of the context of the pass-through legislation cited above, we consider CAHs to be ''hospitals'' for purposes of extending eligibility for the CRNA pass-through payments to them.

Therefore, in the May 4 proposed rule, we proposed to add a new § 413.70(a)(3) and revise §§ 413.70(a)(2), (b)(1), and (b)(6) to permit CAHs that meet the criteria for the pass-through payments in § 412.113(c) to qualify for pass-through payments for the costs of anesthesia services for both inpatient and outpatient surgeries, on the same basis as full service rural hospitals. As an unrelated technical correction, we proposed to revise § 413.70(b)(2)(i)(C) to delete the incorrect reference to § 413.130(j)(2) and replace it with a reference to reduction in capital costs under § 413.130(j). We also proposed to revise § 412.113(c) by changing the term ''hospital'' to ''hospital or CAH''.

*Comment:* Several commenters favored extension of the CRNA pass-through to CAHs. However, some commenters suggested that the pass-through be made available to all CAHs, even if they furnish 500 or more surgical procedures requiring anesthesia service in the prior year.

*Response:* Section 412.113(c), which is based on the provisions of the Medicare law, is specific with respect to the volume of surgeries that may be performed by facilities qualifying for the CRNA pass-through. The volume of surgeries is a criterion for a hospital to qualify for CRNA pass-through. As we are treating CAHs as hospitals for purposes of the CRNA pass-through, a CAH would have to meet the same qualifying criteria as would a hospital. Accordingly, we are not adopting the commenters' suggestion that the 500 procedure criterion be revised for CAHs.

*Comment:* One commenter stated that anesthesia services in many rural facilities are furnished by anesthesiologists rather than CRNAs, and suggested that pass-through also be made available for the costs of anesthesia services provided by anesthesiologists.

*Response:* The Medicare law is specific to CRNAs and does not offer similar treatment for costs of services of anesthesiologists. Therefore, we are not adopting this suggestion.

4. Payment to CAHs for Emergency Room On-Call Physicians (§ 413.70(b)(4))

Under section 1834(g) of the Act, Medicare payment to a CAH for facility services to Medicare outpatients is the reasonable costs of the CAH in providing such services. The term ''reasonable cost'' is defined in section 1861(v) of the Act and in regulations at 42 CFR Part 413, including, with specific reference to CAHs, § 413.70. Consistent with the general policies stated in section 2109 of the Medicare Provider Reimbursement Manual (PRM), Part I (HCFA Publication 15–1), the reasonable cost of CAH services to outpatients may include reasonable costs of compensating physicians who are on standby status in the emergency room (that is, physicians who are present and ready to treat patients if necessary). However, under existing policy, the reasonable cost of CAH services to outpatients may not include any costs of compensating physicians who are not present in the facility but are on call.

Section 204 of Public Law 106–554 further amended section 1834(g) of the Act (as amended by section 201 of Public Law 106–554) by adding a new

paragraph (5). New section 1834(g)(5) of the Act provides that, in determining the reasonable costs of outpatient CAH services under sections 1834(g)(1) and 1834(g)(2)(A) of the Act, the Secretary shall recognize as allowable costs amounts (as defined by the Secretary) for reasonable compensation and related costs for emergency room physicians who are on call (as defined by the Secretary) but who are not present on the premises of the CAH involved, are not otherwise furnishing physicians' services, and are not on call at any other provider or facility. The provisions of section 204 of Public Law 106–554 are effective for cost reporting periods beginning on or after October 1, 2001.

As we provided in the May 4 proposed rule, to implement the provisions of section 1834(g)(5) of the Act, we proposed to add a new paragraph (4) to § 413.70(b). The proposed § 413.70(b)(4) would permit the reasonable costs of CAH outpatient services to include the reasonable compensation and related costs of emergency room on-call physicians under the terms and conditions specified in the statute. As directed in the statute, under § 413.70(b)(4)(ii)(A) of the proposed rule, we defined ''amounts for reasonable compensation and related costs'' as those allowable costs of compensating emergency room physicians for being on call, to the extent these costs are found to be reasonable under the rules in § 413.70(b)(2).

In addition, as specified under § 413.70(b)(4)(ii)(A) of the proposed rule, we defined an ''emergency room physician who is on call'' as a doctor of medicine or osteopathy with training or experience in emergency care who is immediately available by telephone or radio contact, and who is available on site within the timeframes specified in our existing regulations under § 485.618(d). Existing § 485.618(d) specifies that the physician must be available on site (1) Within 30 minutes, on a 24-hour a day basis, if the CAH is located in an area other than an area described in item (2); or (2) within 60 minutes, on a 24-hour a day basis, if all of the following requirements are met:

- The CAH is located in an area designated as a frontier area (that is, an area with fewer than six residents per square mile based on the latest population data published by the Bureau of the Census) or in an area that meets criteria for a remote location adopted by the State in its rural health care plan, and approved by HCFA, under section 1820(b) of the Act.
- The State has determined under criteria in its rural health care plan that allowing an emergency response time longer than 30 minutes is the only feasible method of providing emergency care to residents of the area served by the CAH.
- The State maintains documentation showing that the response time of up to 60 minutes at a particular CAH it designates is justified because other available alternatives would increase the time needed to stabilize a patient in an emergency.

We also believe that it is essential that physicians who are paid to be in on-call status in fact come to the facility when summoned. Therefore, we proposed to specify that costs of on-call emergency room physicians are allowable only if the costs are incurred under written contracts that require them to come to the CAH when their presence is medically required.

*Comment:* One commenter noted that existing regulations at § 413.70(a)(2) prohibit application, in making reasonable cost determinations for CAHs, of the reasonable compensation equivalent (RCE) limits on physician services to providers. The commenter expressed concern that more explicit reasonableness guidelines may be needed to ensure that costs recognized for on-call services are reasonable.

*Response:* We understand the commenter's concern, but note that existing reasonable cost rules at § 413.9(c)(2) authorize intermediaries to disallow costs of services that are ''substantially out of line'' with costs of other, similar providers in the same area. We will continue to monitor these costs and will consider proposing further or more specific reasonableness standards if necessary.

*Comment:* One commenter stated that contracts for emergency services are typically executed between a CAH and a physician group, and, for legal purposes, the individual physician is not distinguishable from the group. The commenter further stated that if the regulations prohibit the ''physician'' from otherwise furnishing services or being on call at another facility, the proposed language of the regulation may inadvertently prohibit any member of the physicians group from otherwise furnishing services or being on call.

*Response:* We have reconsidered the proposed language of § 413.70(b)(4) in the light of this comment, but find no basis for interpreting the proposed revised language in the way the commenter has suggested may occur. The proposed revised language makes it clear that it is the individual physician who is on call for the CAH that may not be otherwise engaged in furnishing physician's services, or on call at another provider or facility.

We are adopting proposed § 413.70(b)(4) as final.

5. Treatment of Ambulance Services Furnished by Certain CAHs (§ 413.70(b)(5))

Under section 1861(s)(7) of the Act, Medicare Part B covers and pays for ambulance services, to the extent prescribed in regulations, when the use of other methods of transportation would be contraindicated. Various Congressional reports indicate that Congress intended that (1) the ambulance benefit cover transportation services only if other means of transportation are contraindicated by the beneficiary's medical condition; and (2) only ambulance services to local facilities be covered unless necessary services are not available locally, in which case, transportation to the nearest facility furnishing those services is covered. (H.R. Rept. No. 89–213, 89th Cong., 1st Sess. at 37 (1995) and S. Rept. No. 89–404, 89th Cong., 1st Sess., Pt. I, at 43 (1995).

The Medicare program currently pays for ambulance services on a reasonable cost basis when furnished by a provider and on a reasonable charge basis when furnished by a supplier. (The term ''provider'' includes all Medicare-participating institutional providers that submit claims for Medicare ambulance services (hospitals, CAHs, SNFs, and home health agencies).) The term ''supplier'' means an entity that is independent of any provider. The reasonable charge methodology that is the basis of payment for ambulance services is determined by the lowest of the customary, prevailing, actual, or inflation indexed charge.

Section 4531(a)(1) of Public Law 105–33 amended section 1861(v)(1) of the Act and imposed an additional per trip limitation on reasonable cost payment to hospitals and CAHs for ambulance service. As amended, the statute provides that, in determining the reasonable cost of ambulance services furnished by a provider of services, the Secretary shall not recognize the cost per trip in excess of the prior year's reasonable cost per trip updated by an inflation factor. This trip limit provision was first effective for services furnished during Federal fiscal year 1998 (October 1, 1997 through September 30, 1998).

Section 205 of Public Law 106–554 amended section 1834(l) of the Act by adding a new paragraph (8) to that section. New section 1834(l)(8) provides that the Secretary is to pay the reasonable costs incurred in furnishing ambulance services if such services are

furnished by a CAH (as defined in section 1861(mm)(1) of the Act), or by an entity owned and operated by the CAH. This provision in effect eliminates any trip limit that CAHs had been subject to as a result of section 1861(v)(1) of the Act, as amended by Public Law 105–33. However, section 205 further states that in order to receive reasonable cost reimbursement for the furnishing of ambulance services, the CAH or entity must be the only provider or supplier of ambulance services located within a 35-mile drive of the CAH. Section 205 is effective for services furnished on or after December 21, 2000, the date of enactment of Public Law 106–554.

As stated in the May 4 proposed rule, to implement the provisions of section 1834(l)(8) of the Act, we proposed to add a new paragraph (5) to § 413.70(b) to permit a CAH, or an entity owned or operated by a CAH, to be paid for furnishing ambulance services on a reasonable cost basis if the CAH or entity is the only provider or supplier of ambulance services within a 35-mile drive of the CAH. In determining whether there is any other provider or supplier of ambulance services within a 35-mile drive of a CAH or entity, we first identify the site where the nearest other ambulance provider or supplier garages its vehicles, and then determine whether that site is within 35 miles, calculated as the shortest distance in miles measured over improved roads. An improved road for this purpose is be defined as any road that is maintained by a local, State, or Federal government entity, and is available for use by the general public. Consistent with the change, in the May 4 proposed rule concerning § 412.92(c)(1) relating to SCH determinations (as explained in section IV.A. of this preamble), we proposed to consider improved roads to include the paved surface up to the front entrance of the hospital and, for purposes of § 413.70(b)(5), the front entrance of the garage.

*Comment:* Several commenters recommended that we support a legislative change that would eliminate the 35-mile requirement and allow all designated CAHs owning ambulance services to be reimbursed at cost. Another commenter requested that we support a legislative change to address situations where the distance requirement involves mountainous terrain or only secondary roads and that in such cases the mileage requirement be 15 miles.

*Response:* As the commenters pointed out, the statute as currently worded is clear as to applicability of the 35-mile rule in connection with the requirements for cost reimbursement of ambulance services furnished by CAHs. Therefore, we are not making any changes in the final regulation based on these comments.

*Comment:* One commenter described a situation where both the CAH and ambulance services are wholly owned by a city but the CAH provides operating services to the ambulance company. The commenter asked whether in such a case the ambulance services could be considered to be furnished by an entity that is wholly owned and operated by the CAH.

*Response:* As stated in section 205 of the Public Law 106–554, payment on a reasonable cost basis may be made for ambulance services furnished by a CAH, or an entity owned and operated by the CAH. The legislation does not allow us to extend similar treatment to ambulance services that may be operated but not owned by a CAH. Accordingly, we are not making any changes in this final rule based on this comment.

We are adopting proposed § 413.70(b)(5) as final without change.

6. Qualified Practitioners for Preanesthesia and Postanesthesia Evaluation in CAHs

Section 1820 of the Act sets forth the conditions for designating certain hospitals as CAHs. Implementing regulations for section 1820 of the Act are located in 42 CFR part 485, Subpart F. Included in the conditions of participation regulations for CAHs in subpart F is the condition for surgical services (§ 485.639). Existing § 485.639 specifies that preanesthesia and postanesthesia services in a CAH can only be performed by a doctor of medicine or osteopathy, including an osteopathic practitioner recognized under section 1101(a)(7) of the Act; a doctor of dental surgery or dental medicine; or a doctor of podiatric medicine. This Medicare condition of participation requirement regarding preanesthesia and postanesthesia evaluations for CAHs differs from, and is more restrictive than, the current requirement for acute care hospitals in general. In an acute care hospital, the CRNA is listed among the practitioners who may perform the preanesthesia and postanesthesia evaluations.

Our principal consideration in regulating providers is to ensure patient safety and high quality patient outcomes. As circumstances and health care environments change, we reassess regulations and propose changes accordingly.

In the May 4 proposed rule, we stated that when the regulations for the initial Rural Primary Care Hospital (RPCH) program (which later became the CAH program) were adopted, RPCHs were limited to patient stays of no more than 72 hours and to bed counts of no more than 6 acute care beds. We initially viewed RPCHs as very limited-service facilities that would be unlikely to perform any surgery beyond what might be done in a physician's office; therefore, we did not have a condition of participation for surgery. Section 102(a)(1) of the Social Security Amendments of 1994, Public Law 103–432, specifically authorized surgical care in RPCHs. In June 1995, we proposed a surgical condition of participation that incorporated the ambulatory surgery center (ASC) standards. We expected that the types of procedures done in a RPCH would most likely be those that could be done in ASCs. At the time, we received no comments in response to the proposed standards and therefore adopted them in the final RPCH conditions of participation that were published on September 1, 1995 (60 FR 45851).

In 1997, the RPCH (now CAH) program was expanded through a statutory change to include all States and to allow for an increase in bed size and length of stay (August 29, 1997 final rule, 62 FR 46035). Since that time, the program's original conditions of participation have been revised (and more recently have been proposed to be revised) to remove possible barriers to access to care. One example of our latest effort is our proposed rule to eliminate the Federal requirement for physician supervision of CRNAs in CAHs as well as in acute care hospitals and ASCs that was published in the **Federal Register** on January 18, 2001 (66 FR 96570).

Recently, provider and medical groups have suggested that CAHs may be at risk of losing the ability to provide access to appropriate surgical services without the full support of available CRNAs. They indicated that the existing regulations place the responsibility of the preanesthesia and postanesthesia evaluations on the operating practitioner, thereby creating a higher standard for CAHs than for other hospitals.

In an effort to eliminate or minimize potential access issues in rural areas and to recognize the CAH's program expansion, in the May 4, 2001 proposed rule, we proposed to revise § 485.639(b) to allow CRNAs to perform preanesthesia and postanesthesia evaluations in a CAH. As with any licensed independent health care provider, the proposed change would not permit CRNAs to practice beyond his or her licensed scope of practice or

the approved policies and procedures of the CAH.

We received 26 comments on our proposal.

*Comment:* Almost all of the 26 commenters supported our proposed change to the existing CAH conditions of participation to remove the requirement that only physicians can perform the preanesthesia and postanesthesia evaluations. The proposed regulation includes CRNAs among the practitioners that may perform these services. The commenters stated that the existing anesthesia evaluation requirements for CAHs are more restrictive than the requirements for hospitals and they impose an unnecessary burden on operating surgeons and the facilities.

*Response:* We appreciate the commenters' support.

*Comment:* One commenter stated that the proposed amendment to the condition of participation for surgical services under § 485.639(b) is ill-advised and should not be adopted, or, at the very least, should be postponed until the regulation regarding physician supervision of CRNAs in hospitals is finalized.

*Response:* The commenter correctly notes that we have not finalized the regulation to amend the physician supervision requirement for CRNAs (66 FR 96570, January 18, 2001). Our proposal that CRNAs perform preanesthesia and postanesthesia evaluations in CAHs in our May 4, 2001 proposed rule does not conflict with the January 18, 2001 proposed physician supervision regulation because our proposal does not affect current requirements for CRNAs, such as physician supervision. We mentioned the proposed physician supervision regulation in the preamble to the May 4 proposed rule as an example of our continual effort to review and evaluate our policies and regulations to better facilitate patient access and improve patient outcomes.

*Comment:* One commenter stated that there is no basis for us to assume that the safety-oriented anesthesia standards for CAHs should be any less stringent than those applicable to ambulatory surgical centers (ASCs).

*Response:* We acknowledge the commenter's concern regarding the anesthesia risk and evaluation standard for ASCs. Our existing conditions for coverage for ASCs require examination of patients by a physician immediately before surgery to evaluate the risk of anesthesia and of the procedure to be performed. The ASC conditions for coverage also require evaluation of patients by a physician for proper anesthesia recovery prior to discharge from the ASC. We expect to review and modify the ASC condition of coverage, including the current anesthesia risk and evaluation standard, through a notice of proposed rulemaking in 2002. At that time, we will consider the commenter's concern.

*Comment:* One commenter stated that according to a recent national survey of one-third of rural hospital chief executives, almost 80 percent of the respondents reported that their institutions perform high-complexity surgery, such as gall bladder and stomach surgery. The commenter further stated that the hospital conditions of participation require that the preoperative evaluation be conducted by an individual qualified to administer anesthesia, but in the cases of a nurse anesthetist, the anesthesia provider must work under the supervision of the operating practitioner or an anesthesiologist. As such, the commenter summarized that the hospital requirements are not less stringent than the CAH requirements.

*Response:* The commenter has misunderstood the proposal to mean that physician supervision for CRNAs is eliminated. The proposed regulation, as noted in response to a previous comment, will not remove physician supervision of CRNAs.

Unlike in acute care hospitals, CRNAs are currently listed among the qualified practitioners who can administer anesthesia under physician supervision in CAHs but they cannot perform the preanesthesia and postanesthesia evaluations. In response to the provider industry's concerns with access to care, our proposal was that CRNAs be allowed to perform preanesthesia and postanesthesia evaluations.

We are adopting the proposed § 485.639(b) as final without change.

7. Clarification of Location Requirements for CAHs (§§ 485.610(b) and (c))

Under section 1820(c)(2)(B)(i) of the Act, a facility seeking designation by the State as a CAH must meet two distinct types of location requirements. First, the facility must either be actually located in a county or equivalent unit of local government in a rural area, as defined in section 1886(d)(2)(D) of the Act, or it must be located in an urban area as defined in section 1886(d)(2)(D) of the Act, but be treated as being located in a rural area under section 1886(d)(8)(E) of the Act. Second, the facility must also be located more than a 35-mile drive (or, in the case of mountainous terrain or in areas with only secondary roads available, a 15-mile drive) from a hospital or similar facility described in section 1820(c) of the Act, or it must be certified by the State as being a necessary provider of health care services to residents in the area. Implementing regulations for these provisions were published in an interim final rule with comment period in the **Federal Register** on August 1, 2000 (65 FR 47026) and are set forth at § 485.610(b).

As we indicated in the May 4 proposed rule, recently, concern has been expressed that § 485.610(b) does not accurately reflect the fact that a facility may satisfy the ''rural location'' requirement either by actually being located in a rural area or by being located in an urban area but qualifying for treatment as rural under section 1886(d)(8)(E) of the Act. In addition, we have received questions as to whether a potential CAH must meet both the rural location requirement and the requirement for location relative to other facilities (or certification by the State as a ''necessary provider'').

To avoid any further confusion, and ensure that our regulations reflect the provisions of the law accurately, we proposed to revise § 485.610(b) to clarify that a potential CAH must either be actually located in a rural area, or be treated as being rural under section 1886(d)(8)(E) of the Act. In addition, we proposed to place the provisions of the existing § 485.610(b)(5) in a newly created paragraph (c) entitled, ''Location relative to other facilities or necessary provider certification''. We proposed to relocate this provision in order to clarify that these criteria are separate from the rural location criteria. These changes do not reflect any change in policy; they are merely an attempt to improve the clarity of the regulations.

We did not receive any comments on these proposed changes and, therefore, are adopting them as final.

8. Other Legislative Changes Affecting CAHs

a. 96-hour Average Length of Stay Standard (Section 403(a) of Public Law 106–113 and 42 CFR 485.620(b))

As stated in the August 1, 2000 interim final rule with comment period, prior to the enactment of Public Law 106–113, section 1820(c)(2)(B)(iii) of the Act limited CAH designation only to facilities that provided inpatient care to each patient for a period of time not to exceed 96 hours, unless a longer period was required because of inclement weather or other emergency conditions, or a peer review organization (PRO) or equivalent entity, on request, waived the 96-hour restriction. Section 403(a) of

Public Law 106–113 amended section 1820(c)(2)(B)(iii) of the Act to require that the 96-hour limit on stays be applied on an annual average basis, and to delete the provisions regarding waiver of longer stays. Therefore, CAHs will be permitted to keep some individual patients more than 96 hours without a waiver request, so long as the facility's average length of acute stays in any 12-month cost reporting period is not more than 96 hours.

The effective date of this provision is November 29, 1999.

In the August 1, 2000 interim final rule with comment period, we revised the regulations on conditions of participation for length of stay for CAHs at § 485.620(b) to reflect this change.

*Comment:* One commenter noted that 96-hour length of stay limitation for CAHs clearly contemplates that the facility-wide average length of stay be computed as an hourly average, while Medicare cost report instructions require inpatient utilization to be reported by days of care rather than hours. The commenter expressed concern that if cost report data on days of care are converted to an hourly equivalent, this might overstate the length of stay for some facilities, since patients in the facility for only a few hours might be counted as having been inpatients for a full 24 hours. The commenter requested that we provide further directions to the fiscal intermediaries on the exact data to be used and the precise method to capture the length of stay average.

*Response:* We understand the commenter's concern and will ensure that any directions to intermediaries and State agencies on determining facility-wide average length of stay provide for calculating that average accurately. However, no change is needed to the proposed regulation and we are adopting it as final.

b. For-Profit Facilities (Section 403(b) of Public Law 106–113 and 42 CFR 485.610(a))

As stated in the August 1, 2000 interim final rule with comment period, prior to enactment of Public Law 106–113, section 1820(c)(2)(B) of the Act allowed only nonprofit or public hospitals to be designated as CAHs. Section 403(b) of Public Law 106–113 revises section 1820(c)(2)(B) of the Act to remove the words ''nonprofit or public'' before ''hospitals'', thus enabling for-profit hospitals to qualify for CAH status.

In that interim final rule with comment period, we revised the regulations on the conditions of participation related to the status and location for CAHs at § 485.610(a) to reflect this change.

We did not receive any comments on this provision and are adopting the revision to § 485.610(a) as final.

c. Closed and Downsized Hospitals (Section 403(c) of Public Law 106–113 and 42 CFR 485.610(a)(1))

Under section 1820(c)(2) of the Act, CAH designation was available only to facilities currently operating as hospitals. As stated in the August 1, 2000 interim final rule with comment period, section 403(c) of Public Law 106–113 amended the statute to permit a State to designate as a CAH a facility that previously was a hospital but ceased operations on or after November 29, 1989 (10 years prior to the enactment of Public Law 106–113), if that facility fulfills the criteria under section 1820(c)(2)(B) of the Act for CAH designation as of the effective date of its designation. The amendment also allows CAH designation for facilities that previously had been hospitals, but are currently State-licensed health clinics or health centers if they meet the revised criteria for designation under section 1820(c)(2) of the Act as of the effective date of designation. In the August 1 interim final rule with comment period, we revised the CAH criteria for State certification under regulations at § 485.610(a)(1) to reflect this change.

Although we received no public comment on the revision to § 485.610(a)(1), we have determined that one technical revision to § 486.610 is needed. We are making a technical correction to paragraph (a)(2) of § 485.610. Currently, that paragraph states that a closed facility may qualify for designation as a CAH only if it meets applicable criteria for designation under Subpart F of Part 485 ''as of November 29, 1999.'' However, under section 1820(c)(2)(C)(ii) of the Act, as added by section 403(c)(2) of Public Law 106–113, the facility must meet all other applicable requirements for CAH designation by the State as of the effective date of its designation as a CAH. Therefore, we are revising § 485.610(a)(2) to state that a closed facility may qualify for designation as a CAH only if it meets applicable criteria for designation under Subpart F of Part 485 as of the effective date of that designation.

In the August 1, 2000 final rule (65 FR 47052), we revised § 485.610 to reflect the provisions of section 403(c) of Public Law 106–113. However, we inadvertently did not make a conforming change to § 485.612, which continues to state that the applicant facility must be a hospital with a provider agreement to participate in the Medicare program at the time it applies for designation as a CAH. To correct this oversight and reflect the provisions of section 403(c) in the regulations at § 485.612, in the June 13, 2001 interim final rule with comment period (66 FR 32183), we revised § 485.612 to state that the requirement to have a provider agreement as a hospital at the time of application does not apply to recently closed facilities as described in § 485.610(a)(2) or to health clinics or health centers as described in § 485.610(a)(3).

We did not receive any comments on this provision and are adopting the provisions as final without change.

d. Elimination of Coinsurance for Clinical Diagnostic Laboratory Tests Furnished by a CAH (§§ 410.152 and 413.70))

As we indicated in both the August 1, 2000 and June 13, 2001 interim final rules with comment period, under the law in effect before the enactment of Public Law 106–113, clinical diagnostic laboratory services furnished by a CAH to its outpatients were, like other outpatient CAH services, paid for on a reasonable cost basis, subject to the Part B deductible and coinsurance provisions. With respect to coinsurance, this meant that the beneficiary was responsible for payment of 20 percent of the CAH's customary charges for the services and the CAH received payment from the Medicare program equal to 80 percent of its reasonable costs of furnishing the services.

In the August 1, 2000 interim final rule with comment period (65 FR 47042), we implemented section 403(e) of Public Law 106–113, which amended section 1833(a) of the Act and eliminated the Part B coinsurance and deductible for laboratory tests furnished by a CAH on an outpatient basis. Thus, CAHs were not permitted to impose a deductible or coinsurance charge on the beneficiary for these services. Also, in accordance with section 1833(a)(1)(D) and (a)(2)(D), as also amended by section 403(e) of Public Law 106–113, Medicare Part B was to pay 100 percent of the least of the amount determined under the local laboratory fee schedule, the national limitation amount for that test, or the amount of the charges billed for the tests.

The effect of this change was that clinical diagnostic laboratory tests furnished by a CAH to its outpatients, were paid for on the same basis as clinical diagnostic laboratory tests furnished by full-service hospitals to outpatients. Section 403(e)(2) of Public

Law 106–113 provided that this provision was effective with respect to services furnished on or after November 29, 1999. In the August 1, 2000 interim final rule with comment period, we clarified our policy and incorporated the provisions of section 403(e) of Public Law 106–113 in §§ 410.152 and 413.70 of the regulations.

As we indicated in the June 13, 2001 interim final rule with comment period (66 FR 32172), section 201(a) of Public Law 106–554 amended section 1834(g) of the Act to provide that there will be no collection of coinsurance, deductible, copayments, or any other type of cost sharing from Medicare beneficiaries with respect to outpatient clinical diagnostic laboratory services in a CAH.

Section 201(a) further provided that payment for these services will be made on a reasonable cost basis. Section 201(b) of the Public Law 106–554 amended section 1833(a) of the Act by eliminating any reference to CAHs receiving payment for outpatient clinical diagnostic laboratory services on a fee schedule basis. These amendments are effective for services furnished on or after November 29, 1999.

In the June 13 interim final rule with comment period, we incorporated the provisions of section 201 of Public Law 106–554 in § 413.70 of the regulations and changed the references cited in § 410.152(k)(2). To prevent any misunderstanding of the scope of section 201(a), we further revised § 413.70(b)(3)(iii) to clarify that payment to a CAH for clinical diagnostic laboratory tests for individuals who are not inpatients of the CAH will be made on a reasonable cost basis only if the individuals are outpatients of the CAH at the time the specimens are collected. Outpatient status will be determined under the definition in § 410.2, which provides that an ''outpatient'' is a person who has not been admitted as an inpatient but is registered as an outpatient and receives services (rather than supplies alone) from the CAH.

We indicated that we recognize that CAHs may appropriately function as reference laboratories, by performing clinical diagnostic laboratory tests on specimens from persons who do not meet the ''outpatient'' definition but have the specimens drawn at other locations, such as physician offices. Payment for clinical diagnostic laboratory tests for these other individuals (that are persons who are not patients of the CAH when the specimens are collected) will be made in accordance with the provisions of sections 1833(a)(1)(D) and 1833(a)(2)(D) of the Act.

*Comment:* One commenter on the August 1, 2000 interim final rule expressed the view that it was Congress' intent to pay CAHs for clinical diagnostic laboratory tests for outpatients on the basis of reasonable costs, not on the basis of a laboratory fee schedule. The commenter suggested that we develop and implement regulations permitting reasonable cost payment for these laboratory services.

*Response:* As explained earlier, section 201(a) of Public Law 106–554 subsequently modified the Medicare law to clearly require reasonable cost payment for those services and we have implemented that provision in the June 13, 2001 interim final rule with comment period (which is being finalized in this final rule).

*Comment:* Some commenters stated that CAHs frequently perform clinical diagnostic laboratory tests on specimens drawn from patients at physician offices, nursing homes, and assisted living facilities in the community where the CAH is located, and in other rural communities. The commenters recommended that reasonable cost payment be made to the CAH for these services because, in the commenters' view, doing so would help support the provision of health care in these settings.

*Response:* As explained above and in the preamble to the June 13 interim final rule with comment period, section 201(a) of Public Law 106–554 mandates reasonable cost payment to CAHs for clinical diagnostic laboratory tests to CAH patients but does not provide similar payment when the CAH functions as a reference laboratory for patients who do not come to the CAH but are seen at other locations. The statute does not provide for such payment for services to non-CAH patients. We believe these laboratory services provided to individuals who are not patients of a CAH should be paid for on the same basis as such services are generally paid for regardless of the fact that the CAH reference laboratory performed the testing, and that payment for them on a reasonable cost basis would extend the CAH payment methodology far beyond the CAH itself. Thus, we are not adopting the commenters' recommendation.

*Comment:* One commenter suggested that we not require CAHs to refund coinsurance amounts collected from beneficiaries and third-party payers for clinical diagnostic laboratory tests furnished to outpatients on or after November 29, 1999. The commenter stated that this would be appropriate because there has been confusion among some CAHs as to their responsibilities in this area, and returning these amounts could be burdensome for the CAHs.

*Response:* Public Law 106–554 clearly and consistently states that, effective November 29, 1999, these services are not subject to deductible or coinsurance amounts. Medicare Intermediary Manual Transmittal No. 1799 and Medicare Hospital Manual Transmittal No. 757, issued in June 2000, reemphasized this point. Therefore, we are not making any change in this final rule based on this comment.

e. Assistance With Fee Schedule Payment for Professional Services Under All-Inclusive Rate

Prior to enactment of Public Law 106–113, section 1834(g) of the Act provided that the amount of payment for outpatient CAH services would be the reasonable costs of the CAH in providing such services. However, the reasonable costs of the CAH's services to outpatients included only the CAH's costs of providing facility services, and did not include any payment for professional services. Physicians and other practitioners who furnished professional services to CAH outpatients billed the Part B carrier for these services and were paid under the physician fee schedule in accordance with the provisions of section 1848 of the Act.

In the August 1, 2000 final rule (65 FR 47100), we implemented section 403(d) of Public Law 106–113, which amended section 1834(g) of the Act to permit the CAH to elect to be paid for its outpatient services under an optional method. CAHs making this election would be paid amounts equal to the sum of the following costs, less the amount that the hospital may charge as described in section 1866(a)(2)(A) of the Act (that is, Part A and Part B deductibles and coinsurance amounts):

- For facility services, not including any services for which payment may be made as outpatient professional services, the reasonable costs of the CAH in providing the services; and
- For professional services otherwise included within outpatient CAH services, the amounts that would otherwise be paid under Medicare if the services were not included as outpatient CAH services.

Section 403(d) of Public Law 106–113 added section 1834(g)(3) to the Act to further specify that payment amounts under this optional method are to be determined without regard to the amount of the customary or other charge. The amendment made by

section 403(d) was effective for cost reporting periods beginning on or after October 1, 2000.

In the June 13, 2001 interim final rule with comment period (66 FR 32172), we implemented section 202 of Public Law 106–554, which amended section 1834(g) of the Act to provide that when a CAH elects the option to be paid for Medicare outpatient services under the reasonable costs for facility services plus fee schedule amounts for professional services method, Medicare will pay 115 percent of the amount it would otherwise pay for the professional services. This provision is effective for items and services furnished on or after July 1, 2001.

In the June 13 interim final rule with comment period, we revised the regulations at § 413.70(b)(3) to reflect the change in the level of payment for professional services under the alternative payment method for outpatient CAH services.

*Comment:* One commenter asked for an explanation of the relationship between payment to CAHs for CRNA services to outpatients at 115 percent of the amounts that would otherwise be payable under the physician fee schedule, and the pass-through of CRNA services costs under § 412.113(c) as described in the proposed rule published on May 4, 2001 (66 FR 22646).

*Response:* Under the proposed changes to §§ 413.70 and 412.113(c) that we included in our May 4, 2001 proposed rule, a CAH would be able to qualify for the CRNA pass-through (that is, reasonable costs payment for its costs of compensating CRNAs for their professional services to inpatients and outpatients) on the same basis as a hospital. If a particular CAH qualified for the CRNA pass-through and chose to claim payment under that method for its CRNA compensation costs, it would be paid on a reasonable cost basis for those costs. However, neither the CAH nor the individual CRNAs would then be permitted to bill under the physician fee schedule for any CRNA services to CAH patients. In particular, if the CAH chose the elective (115 percent) method of payment for professional services to CAH outpatients, its billings for those services could not include any amounts for CRNA services.

If a CAH was not qualified for the CRNA pass-through (because, for example, it furnished 500 or more surgical procedures requiring anesthesia per year), or was qualified but chose not to claim payment under the pass-through method, but did choose payment for professional services to CAH outpatients under the elective (115 percent) method, payment for CRNA services to outpatients would be made under the elective (115 percent) method. Under these circumstances, the CAH could not claim any CRNA compensation costs for the services on its cost report.

*Comment:* One commenter asked whether payment under the optional method described in § 413.70(b)(3) is available for all professional services to CAH outpatients in CAH space, including professional services the commenter described as ''clinic visits''.

*Response:* The optional method applies to professional services otherwise included within outpatient CAH services provided to CAH outpatients. Outpatient CAH services are those medical and other services furnished by a CAH on an outpatient basis. Services that are not otherwise provided in a CAH on an outpatient basis, such as services provided by a home health agency owned or operated by a CAH, are paid under the payment rules applicable to the specific provider or supplier type and cannot be made under the optional method of payment for outpatient CAH services.

*Comment:* One commenter asked whether physicians and other practitioners who would otherwise be permitted to bill the Medicare Part B carrier for their professional services provided to CAH patients could reassign their Part B billing rights for those services to the CAH under the existing reassignment rules.

*Response:* The commenter is correct in understanding that practitioners may reassign their billing rights for professional services provided to CAH patients under applicable reassignment rules. Such reassignment would be needed to help ensure that there is not duplicate billing for those services.

*Comment:* One commenter stated that our current manual instructions require all professional services to the outpatients of a particular CAH to be billed under either the method in § 413.70(b)(2) (reasonable costs for facility services, with billing by the practitioner to the carrier for professional services) or the optional method in § 413.70(b)(3) (reasonable costs for facility services with billing by the CAH for professional services). The commenter asked whether a CAH would be permitted to elect the § 413.70(b)(3) method on a practitioner-by-practitioner basis, so that some practitioners' services would be billed by the CAH while others would be billed by the practitioner.

*Response:* We appreciate the commenter's request and note that we have already addressed this issue in our regulations. Specifically, the regulations at § 413.70(b)(3)(i) state that once a CAH elects the optional method for payment of outpatient CAH services for a cost reporting period, the optional payment method remains in effect for all of that period and applies to all outpatient CAH services furnished to outpatients of the CAH during that period.

*Comment:* Some commenters noted that section 202 of Pubic Law 106–554 makes the 115 percent payment option for professional services to CAH outpatients available for services furnished on or after July 1, 2001. However, the commenters also stated that our program instructions state that the systems changes needed to permit payment at that level will not be available before October 1, 2001. The commenters asked for confirmation that the payment at the 115 percent level for services furnished on or afterJuly 1, 2001, will be made available to CAHs electing payment under the optional method, and suggested various alternatives, including possible retroactive payment adjustments by the intermediary, by which this could be accomplished.

*Response:* We appreciate the commenters' suggestions. We will continue to explore all feasible approaches to ensuring that payment is made in accordance with statutory requirements and will consider the various suggestions made by the commenter as we work to achieve this result.

f. Conforming Change—Conditions of Participation Relating to Compliance With Hospital Requirements at Time of Application for CAH Designation (§ 485.612)

Under the law in effect prior to enactment of Public Law 106–113, CAH status was available to facilities only if they were hospitals at the time of their application for designation as CAHs. This requirement was implemented through regulations at § 485.610 (Condition of participation: Status and limitations) and § 485.612 (Condition of Participation: Compliance with hospital requirements at time of application). As we previously noted, section 403(c) of Public Law 106–113 added subparagraphs (C) and (D) to section 1820(c)(2) of the Act to specify that recently closed facilities and facilities that had downsized from hospital status to being a clinic or health center would also be eligible to apply for CAH designation.

As noted earlier, in the August 1, 2000 final rule(65 FR 47052), we revised our regulations at § 485.610 to reflect the provisions of section 403(c) of the

Public Law 106–113. However, we inadvertently did not make a conforming change to § 485.612, which continues to state that the applicant facility must be a hospital with a provider agreement to participate in the Medicare program at the time it applies for designation as a CAH. To correct this oversight and reflect the provisions of section 403(c) in the regulations at § 485.612, in the June 13, 2001 interim final rule with comment period(66 FR 32183), we revised § 485.612 to state that the requirement to have a provider agreement as a hospital at the time of application does not apply to recently closed facilities as described in § 485.610(a)(2) or to health clinics or health centers as described in § 485.610(a)(3).

We did not receive any comments on this regulation revision and are adopting it as final.

g. Participation in Swing-Bed Program (Section 403(f) of Public Law 106–113)

Section 403(f) of Public Law 106–113, entitled ''Improvements in the Critical Access Hospital Program,'' included a provision on swing-bed agreements. In the August 1, 2000 interim final rule with comment period, we indicated that since our existing regulations at § 485.645 already provide for swing beds in CAHs, we were not making any changes to our regulations based on this provision.

We did not receive any comments on this provison and are adopting our interim decision not to make any changes to our regulations as final.

*C. Hospital Swing Bed Program*

In the August 1, 2000 interim final rule with comment period (65 FR 47042), we indicated that section 408(a) of Public Law 106–113 amended section 1883(b) of the Act to remove the provision that in order for a hospital to enter into an agreement to provide Medicare post-hospital extended care services, the hospital had to be granted a certificate of need for the provision of long-term care services from the State health planning and development agency (designated under section 1521 of the Public Health Service Act) for the State in which the hospital is located. Section 408(b) of Public Law 106–113 amended section 1883(d) of the Act to remove the provisions under paragraphs (d)(2) and (d)(3) that placed restrictions on lengths of stays in hospitals with more than 49 beds for post-hospital extended care services. These provisions are effective on the first day after the expiration of the transition period under section 1888(e)(2)(E) of the Act for payment for covered skilled nursing facility (SNF) services under the Medicare program; that is, at the end of the transition period for the SNF prospective payments system that began with the facility's first cost reporting period beginning on or after July 1, 1998 and extend through the end of the facility's third cost reporting period after this date.

The Medicare regulations that implemented the provision of section 1883(b) of the Act are located at § 482.66(a)(3). The regulations that implemented the provisions of sections 1883(d)(2) and (d)(3) of the Act are located at §§ 482.66(a)(6) and (a)(7). As a result of the changes made by section 408(a) and (b) of Public Law 106–113, in the August 1, 2000 interim final rule with comment period, we removed §§ 482.66(a)(3), (a)(6), and (a)(7). (Existing paragraphs (a)(4) and (a)(5) were redesignated as (a)(3) and (a)(4), respectively, as a result of the removal of existing paragraph (a)(3).)

We did not receive any comments on our revisions to the regulations in the interim final rule with comment period and are adopting them as final.

**VII. MedPAC Recommendations**

On March 1, 2001, the Medicare Payment Advisory Commission (MedPAC) issued its annual report to Congress, including several recommendations related to the inpatient operating payment system. Those related to the inpatient prospective payment systems included: accounting for new technology in hospital prospective payment systems, implementation of an occupational-mix adjusted wage index for FY 2005, financial performance and inpatient payment issues, and elimination of the weighting factors for direct GME for specialties with training beyond the initial residency period. In the May 4, 2001 proposed rule, we responded to these recommendations (66 FR 22713–22714).

In addition, we addressed Recommendation 5A concerning the update factor for inpatient hospital operating costs and for hospitals and hospital distinct-part units excluded from the prospective payment system in Appendix D to the proposed rule (and in Appendix C of this final rule).

*A. Accounting for New Technology in Hospital Prospective Payment Systems (Recommendations 3D and 3E)*

*Recommendation 3D:* For the inpatient payment system, the Secretary should develop formalized procedures for expeditiously assigning codes, updating relative weights, and investigating the need for patient classification changes to recognize the costs of new and substantially improved technologies.

*Response:* Section 533 of Public Law 106–554 directs the Secretary to develop a mechanism for ensuring adequate payment under the hospital inpatient prospective payment system for new medical services and technologies, and to report to Congress on ways to more expeditiously incorporate new services and technologies into that system. The discussion relating to new medical services and technologies was included in section II.D. of the May 4, 2001 proposed rule.

MedPAC states that a more formal system for assigning codes and investigating the need for DRG changes would have enabled the current system to more adequately respond to new technology. Although we believe the current process for assigning new codes has the advantage of being well-understood, we proposed a new process in the May 4 proposed rule. We will be finalizing this process in a separate final rule.

*Recommendation 3E:* Additional payments in the inpatient payment system should be limited to new or substantially improved technologies that add significantly to the cost of care in a diagnosis related group and should be made on a budget-neutral basis.

*Response:* Section 533 of Public Law 106–554 directed the Secretary to establish a mechanism by October 1, 2001. We will be finalizing this process in a separate final rule.

*B. Occupational-Mix Adjusted Wage Index for FY 2005 (Recommendation 4)*

*Recommendation:* To implement an occupation-mix adjusted wage index in FY 2005, the Secretary should collect data on wage rates by occupation in the fiscal year 2002 Medicare cost reports. Hospital-specific wage rates for each occupation should be supplemented by data on the mix of occupations for each provider type. The Secretary also should continue to improve the accuracy of the wage index by investigating differences in wages across areas for each type of provider and in the substitution of one occupation for another.

*Response:* In the May 4 proposed rule, we proposed to collect occupational mix data from hospitals through a supplemental survey to the cost report for cost reporting periods beginning during FY 2001. A more complete discussion of the proposed methodology in the May 4 proposed rule (66 FR 22674) and the public comments we received and our responses can be found in section III.C.3. of this final rule.

*C. Financial Performance and Inpatient Payment Issues (Recommendations 5B, 5C, and 5D)*

*Recommendation 5B:* In collecting sample patient-level data, CMS should seek to balance the goals of minimizing payment errors and furthering understanding of the effects of coding on case-mix change.

*Response:* The sample data referred to by MedPAC is the Payment Error Prevention Program (PEPP) Surveillance Sample. These data are collected to monitor the payment error rate for Medicare inpatient prospective payment system services and provide outcome data to measure PROs' performance in reducing payment errors in their respective States. This information can be appropriately weighted to reflect the true distribution of DRGs nationally. The sample data supplant the DRG validation sample that MedPAC used in its original 1996 through 1998 estimates. The current PEPP Surveillance Sample doubles the size of the earlier DRG validation sample. It is comprised of approximately 60,000 cases per year. We believe this is a sufficient number of cases to both monitor case-mix index changes and PRO performance on payment error reduction.

*Recommendation 5C:* Although the Benefits Improvement and Protection Act of 2000 improved the equity of the hospital disproportionate share adjustment, Congress still needs to reform this adjustment by:

- Including the costs of all poor patients in calculating low-income shares used to distribute disproportionate share payments; and
- Using the same formula to distribute payments to all hospitals covered by prospective payment.

*Response:* CMS is participating in a Medicare Technical Advisory Group workgroup concerning technical issues related to the collection of uncompensated care data relative to the Medicare disproportionate share formula. A worksheet and instructions to collect these data will be sent out for prior consultation this summer for revisions to the cost reports applicable for cost reporting periods beginning on or after October 1, 2001.

*Recommendation 5E:* The Congress should protect urban hospitals from the adverse effect of nearby hospitals being reclassified to areas with higher wage indexes by computing each area's wage index as if none of the hospitals located in the area had been reassigned.

*Response:* In the May 4 proposed rule as in this final rule, CMS includes the wage data for a reclassified hospital in both the area to which it is reclassified and the area where the hospital is physically located. We agree with MedPAC and believe that this will provide consistency and predictability in hospital reclassification and wage indices.

*D. Specialties With Training Beyond the Initial Residency Period (Recommendation 10)*

*Recommendation:* The Congress should eliminate the weighting factors that currently determine Medicare's direct graduate medical education payments and count all residencies equally through completion of residents' first specialty or combined program and subspecialty if one is pursued. Residents training longer than the minimum number of years required for board eligibility in a specialty, combined program, or subspecialty should not be included in hospitals' direct graduate medical education resident counts. These policy changes should be implemented in a budget-neutral manner through adjustments to the per resident payment amounts.

*Response:* Currently, Medicare payments to hospitals for direct GME is dependent, in part, on the initial residency period of the residents. Generally, the initial residency period is defined at § 413.86(g)(1) as the minimum number of years required for board eligibility, not to exceed 5 years. For purposes of determining the direct GME payment, residents are weighted at 1.0 FTE within the initial residency period, and at .5 FTE beyond the initial residency period. The limitation on the initial residency period was designed by Congress to limit full Medicare direct GME payment to the time required to train in a single specialty.

MedPAC states that Medicare's current direct GME payment policy of limiting full funding to the first specialty in which a resident trains provides a disincentive for hospitals to offer training in subspecialties or combined programs and, therefore, may influence hospitals' decisions on the types of residents that they train. MedPAC believes that Medicare should not influence workforce policy and recommends that the disincentive be removed to make Medicare payments policies neutral with regard to programs with prerequisites, subspecialties, and combined programs. Accordingly, MedPAC recommends that Congress eliminate the weighting factors associated with direct GME payment so that all residents would be counted for full direct GME payment through the completion of their first specialty, combined program, or subspecialty. Residents training beyond the minimum number of years required for board eligibility in a specialty, combined program, or subspecialty should not be counted for purposes of the direct GME payment.

MedPAC also believes that eliminating the weighting factors could potentially increase Medicare's direct GME payments by approximately 5 to 8 percent. Therefore, MedPAC recommends that hospitals' per resident amounts (PRAs), which are used to calculate the direct GME payment, be reduced so that this change can be implemented, to the extent possible, in a budget-neutral manner. MedPAC explains that, although further research is needed, it appears that hospitals with substantial subspecialty training (that is, at least 15 percent of the resident mix) would likely see a small net increase in payments, despite the reduction to the PRAs, while hospitals that do not have subspecialty training would likely see a small decrease in payments.

In response to MedPAC's recommendation, we question MedPAC's estimate that eliminating the weighting factors could increase Medicare direct GME payments by only 5 to 8 percent. We believe that subspecialty training constitutes a significant portion of all GME programs, and, consequently, the elimination of the weighting factors could potentially increase payments by far more than 8 percent. If budget neutrality is to be maintained, this could mean that the attendant reductions to the PRAs could be much greater than MedPAC might assume. For those teaching hospitals that have substantial subspecialty training, there is no guarantee that the decreases in the PRAs will be offset by the increases in the direct GME payments due to the elimination of the weighting factors.

While the recommendation would remove the existing disincentive for training in subspecialties, we believe the reductions to the PRAs, whether they are minimal or more significant, will be far more detrimental to the smaller teaching hospitals that have little or no subspecialty training. Many of these hospitals provide care to beneficiaries in rural, underserved areas and in nonhospital settings. We believe these conditions may discourage the expansion of residency training in these areas. It may be inappropriate to limit the direct GME funding to such hospitals, considering Congress' initiatives to encourage residency training in rural, underserved areas and in nonhospital settings. We also are unclear as to how MedPAC would implement the proposed reduction to the PRAs. MedPAC did not explain in

its recommendation how it would propose to do this.

**VIII. Other Required Information**

*A. Requests for Data from the Public*

In order to respond promptly to public requests for data related to the prospective payment system, we have established a process under which commenters can gain access to raw data on an expedited basis. Generally, the data are available in computer tape or cartridge format; however, some files are available on diskette as well as on the Internet at http://www.hcfa.gov/stats/pubfiles.html. In our May 4, 2001 proposed rule, we published a list of data files that are available for purchase (66 FR 22714–22716).

*B. Information Collection Requirements*

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

In the May 4, 2001 proposed rule, we solicited public comments on each of these issues for the following sections that contain information collection requirements.

*Section 412.230(e)(2)(ii) Criteria for an Individual Hospital Seeking Redesignation to Another Rural Area or an Urban Area; § 412.232(d)(2)(ii) Criteria for All Hospitals in a Rural County Seeking Urban Redesignation; § 412.235 Criteria for All Hospitals in a State Seeking a Statewide Wage Index; and Revised § 412.273 Withdrawing an Application or Terminating an Approved 3-Year Reclassification*

Proposed §§ 412.230(e)(2)(ii) and 412.232(d)(2)(ii) specified that, for hospital-specific data for wage index changes for redesignations effective beginning FY 2003, the hospital must provide a 3-year average of its average hourly wages using data from the CMS hospital wage survey used to construct the wage index in effect for prospective payment purposes. For other data, the hospital must provide a weighted 3-year average of the average hourly wage in the area in which the hospital is located and a weighted 3-year average of the average hourly wage in the area to which the hospital seeks reclassification. Proposed new § 412.235 specifies that in order for all prospective payment system hospitals in a State to use a statewide wage index, the hospitals as a group must submit an application to the MGCRB for a decision for reclassifications for wage index purposes. The proposed changes to § 412.273 incorporated proposed revised procedures for hospitals that request withdraw of their wage index application or termination of their wage index reclassification.

The final versions of these proposed changes, discussed in detail in section IV.G. of this final rule, implement sections 304 (a) and (b) of Public Law 106–554.

The information collection requirements associated with a hospital's application to the MGCRB for geographic reclassifications, including reclassifications for wage index purposes and the required submittal of wage data, that are codified in Part 412 are currently approved by OMB under OMB Approval Number 0938–0573, with an expiration date of September 30, 2002.

*Section 412.348(g)(9) Exception Payments*

As discussed in section V. of the May 4 proposed rule, Medicare makes special exceptions payments for capital-related costs through the 10th year beyond the end of the capital prospective payment system transition period for eligible hospitals that complete a project that meets certain requirements specified in § 412.348. In order to assist our fiscal intermediaries in determining the end of the 10-year period in which an eligible hospital will no longer be entitled to receive special exception payments, we proposed to add a new § 412.348(g)(9) to require that hospitals eligible for special exception payments under § 412.348(g) submit documentation to the intermediary indicating the completion date of their project (the date the project was put in use for patient care) that meets the project need and project size requirements outlined in §§ 412.348 (g)(2) through (g)(5). We proposed that, in order for an eligible hospital to receive special exception payments, this documentation would have to be submitted in writing to the intermediary by the later of October 1, 2001, or within 3 months of the end of the hospital's last cost reporting period beginning before October 1, 2001, during which a qualifying project was completed.

Because this provision is expected to affect less than 10 hospitals on an annual basis, this requirement is not subject to the PRA as stipulated under 5 CFR 1320.3(c).

In the August 1, 2000 interim final rule with comment period, we solicited public comments on each of these issues for the following section that contains information collection requirements.

*Section 412.103(b) Special treatment: Hospitals Located in Urban Areas and That Apply for Reclassification as Rural; Application Requirements*

Section 412.103(b) specifies that a facility seeking reclassification under sections 401 (a) or (b) of Public Law 106–113 must apply in writing to the CMS Regional Office and include documentation of the criteria on which its request is based. The application must be mailed; facsimile or other electronic means are not acceptable.

The hospital's application must include a copy of the State law or regulation or other authoritative document verifying that the requesting hospital is situated in an area determined to be rural by the State or the hospital is considered to be a rural hospital.

We estimate that it will take each hospital approximately 30 minutes to complete the application process. We estimate that additional time would be needed to collect the required documentation. This recordkeeping should take no more than approximately 2 hours. Therefore, the paperwork burden associated with the reclassification process would add up to an additional 2½ hours per hospital that request reclassification under section 401 of Public Law 106–113.

This information collection requirement has been submitted to the Office of Management and Budget for approval and is not effective until OMB approves it.

If you have any comments on any of these information collection and recordkeeping requirements, please mail one original and three copies within 30 days of the publication date directly to the following:

Centers for Medicare & Medicaid Services, Office of Information Services, Information Technology Investment Management Group,Division of HCFA Enterprise Standards,Room N2–14–26,7500 Security Boulevard,Baltimore, MD

21244–1850,Attn: John Burke, CMS–1158/31/78–F.

And

Office of Information and Regulatory Affairs, Room 10235, New Executive Office Building,Washington, DC 20503,Attn: Allison Eydt, HCFA Desk Officer.

**List of Subjects**

*42 CFR Part 405*

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Medicare, Reporting and recordkeeping requirements, Rural areas,X-rays.

*42 CFR Part 410*

Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Reporting and recordingkeeping requirements, Rural areas, X-rays.

*42 CFR Part 412*

Administrative practice and procedure, Health facilities, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

*42 CFR Part 413*

Health facilities, Kidney diseases, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

*42 CFR Part 482*

Grant program-health, Hospitals, Medicaid, Medicare, Reporting and recordkeeping requirements.

*42 CFR Part 485*

Grant programs-health, Health facilities, Medicaid, Medicare, Reporting and recordkeeping requirements.

*42 CFR Part 486*

Health professions, Medicare, Organ procurement, X-rays.

Accordingly, 42 CFR chapter IV is amended as follows:

I. The interim final rule with comment period amending 42 CFR Parts 410, 412, 413, 482, and 485 which was published at 65 FR 47026 on August 1, 2000, is adopted as a final rule with the following changes:

## PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END–STAGE RENAL DISEASE SERVICES; PROSPECTIVELY DETERMINED PAYMENT RATES FOR SKILLED NURSING FACILITIES

1. The authority citation for Part 413 is revised to read as follows:

**Authority:** Secs. 1102, 1812(d), 1814(b), 1815, 1833(a), (i), and (n), 1871, 1881, 1883, and 1886 of the Social Security Act (42 U.S.C. 1302, 1395d(d), 1395f(b), 1395g, 1395l(a), (i), and (n), 1395hh, 1395rr, 1395tt, and 1395ww).

2. Section 413.86 is amended by:

a. Revising the first sentence of the introductory text of paragraphs (g)(11)(i).

b. Revising the first sentence of the introductory text of paragraph (g)(11)(ii).

c. Revising paragraph (g)(11)(v)(C).

### § 413.86 Direct graduate medical education payments.

* * * * *

(g) * * *

(11) * * *

(i) If an urban hospital rotates residents to a separately accredited rural track program at a rural hospital(s) for two-thirds of the duration of the program, the urban hospital may include those residents in its FTE count for the time the rural track residents spend at the urban hospital. * * *

(ii) If an urban hospital rotates residents to a separately accredited rural track program at a rural nonhospital site(s) for two-thirds of the duration of the program, the urban hospital may include those residents in its FTE count, subject to the requirements under paragraph (f)(4) of this section. * * *

(v) * * *

(C) All residents that are included by the hospital as part of its rural track FTE count (not to exceed its rural track FTE limitation) must train in the rural area. However, where a resident begins to train in the rural track program at the urban hospital but leaves the program before completing the total required portion of training in the rural area, the urban hospital may count the time the resident trained in the urban hospital if another resident fills the vacated FTE slot and completes the training in the rural portion of the rural track program. An urban hospital may not receive graduate medical education payment for the time the resident trained at the urban hospital if another resident fills the vacated FTE slot and first begins to train at the urban hospital.

* * * * *

II. The interim final rule with comment period amending 42 CFR Parts 410, 412, 413, and 485 which was published at 66 FR 32172 on June 13, 2001, is adopted as a final rule with the following changes:

## PART 412—PROSPECTIVE PAYMENT SYSTEMS FOR INPATIENT HOSPITAL SERVICES

1. The authority citation for Part 412 continues to read as follows:

**Authority:** Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. Section 412.108 is amended by revising paragraph (b) to read as follows:

### § 412.108 Special treatment; Medicare-dependent, small rural hospitals.

* * * * *

(b) *Classification procedures.* The fiscal intermediary determines whether a hospital meets the criterion in paragraph (a) of this section. A hospital must notify its fiscal intermediary to be considered for MDH status based on the criterion under paragraph (a)(1)(iii)(C) of this section. Any hospital that believes it meets this criterion to qualify as an MDH, based on at least two of the three most recent audited cost reporting periods, must submit a written request to its intermediary. The intermediary will make its determination and notify the hospital within 90 days from the date that it receives the hospital's request and all of the required documentation. If a hospital disagrees with an intermediary's determination, it should notify its intermediary and submit documentable evidence that it meets the criteria. The intermediary determination is subject to review under subpart R of part 405 of this chapter. MDH status is effective 30 days after the date of written notification of approval. The time required by the intermediary to review the request is considered good cause for granting an extension of the time limit for the hospital to apply for such a review.

* * * * *

III. For the reasons set forth in the preamble to this final rule, 42 CFR Chapter IV is amended as set forth below:

## PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

A. Part 405 is amended as set forth below:

1. The authority citation for Part 405 continues to read as follows:

**Authority:** Secs. 1102, 1861, 1862(a), 1871, 1874, 1881, and 1886(k) of the Social Security Act (42 U.S.C. 1302, 1395x, 1395y(a), 1395hh, 1395kk, 1395rr, and 1395ww(k), and sec. 353 of the Public Health Service Act (42 U.S.C. 263a).

2. In § 405.2468, paragraph (f)(6)(ii) is republished and paragraph (f)(6)(ii)(D) is revised to read as follows.

### § 405.2468 Allowable costs.

* * * * *

(f) *Graduate medical education.*

* * *

(6) * * *

(ii) The following costs are not allowable graduate medical education costs—

* * * * *

(D) The costs associated with activities described in § 413.85(h) of this chapter.

* * * * *

## PART 412—PROSPECTIVE PAYMENT SYSTEMS FOR INPATIENT HOSPITAL SERVICES

B. Part 412 is amended as follows:

1. The authority citation for Part 412 continues to read as follows:

**Authority:** Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. Section § 412.2 is amended as follows:

a. The introductory text of paragraph (e) is republished.

b. Paragraph (e)(4) is revised.

### § 412.2 Basis of payment.

* * * * *

(e) *Excluded costs.* The following inpatient hospital costs are excluded from the prospective payment amounts and are paid on a reasonable cost basis:

* * * * *

(4) The acquisition costs of hearts, kidneys, livers, lungs, pancreas, and intestines (or multivisceral organs) incurred by approved transplantation centers.

* * * * *

3. Section 412.23 is amended by adding a new paragraph (i) to read as follows:

### § 412.23 Excluded hospitals: Classifications.

* * * * *

(i) *Changes in classification of hospitals.* For purposes of exclusions from the prospective payment system, the classification of a hospital is effective for the hospital's entire cost reporting period. Any changes in the classification of a hospital are made only at the start of a cost reporting period.

4. Section 412.25 is amended by adding a new paragraph (f) to read as follows:

### § 412.25 Excluded hospital units: Common requirements.

* * * * *

(f) *Changes in classification of hospital units.* For purposes of exclusions from the prospective payment system under this section, the classification of a hospital unit is effective for the unit's entire cost reporting period. Any changes in the classification of a hospital unit is made only at the start of a cost reporting period.

5. Section 412.63 is amended by revising paragraphs (t) and (u) to read as follows:

### § 412.63 Federal rates for inpatient operating costs for fiscal years after Federal fiscal year 1984.

* * * * *

(t) *Applicable percentage change for fiscal years 2002 and 2003.* The applicable percentage change for fiscal years 2002 and 2003 is the percentage increase in the market basket index for prospective payment hospitals (as defined in § 413.40(a) of this subchapter) minus 0.55 percentage points for hospitals in all areas.

(u) *Applicable percentage change for fiscal year 2004 and for subsequent fiscal years.* The applicable percentage change for fiscal year 2004 and for subsequent years is the percentage increase in the market basket index for prospective payment hospitals (as defined in § 413.40(a) of this subchapter) for hospitals in all areas.

* * * * *

6. Section 412.92 is amended as follows:

a. Paragraph (b)(1)(iii)(A) is amended by revising the phrase ''50 mile radius'' to read ''35 mile radius''.

b. Paragraph (c)(1) is revised.

### § 412.92 Special treatment: Sole community hospitals.

* * * * *

(c) *Terminology.* * * *

(1) The term *miles* means the shortest distance in miles measured over improved roads. An improved road for this purpose is any road that is maintained by a local, State, or Federal government entity and is available for use by the general public. An improved road includes the paved surface up to the front entrance of the hospital.

* * * * *

### § 412.105 Special treatment: Hospitals that incur indirect costs for graduate medical education programs.

7. Section 412.105 is amended as follows:

a. The introductory text of paragraph (a) is republished.

b. Paragraph (a)(1) is revised.

c. Paragraph (d)(3)(vi) is revised.

d. A new paragraph (d)(3)(vii) is added.

e. Paragraph (f)(1)(ii)(C) is revised.

f. Paragraph (f)(1)(iii) is revised.

g. Paragraph (f)(1)(v) is amended by adding five sentences at the end.

h. In paragraph (f)(1)(vii), the reference to ''§ 413.86(g)(9)'' is removed and ''§ 413.86(g)(12)'' is added in its place.

i. Paragraph (f)(1)(ix) is revised.

### § 412.105 Special treatment: Hospitals that incur indirect costs for graduate medical education programs.

* * * * *

(a) *Basic data.* CMS determines the following for each hospital:

(1) The hospital's ratio of full-time equivalent residents, except as limited under paragraph (f) of this section, to the number of beds (as determined under paragraph (b) of this section). Except for the special circumstances for affiliated groups and new programs described in paragraphs (f)(1)(vi) and (f)(1)(vii) of this section, for a hospital's cost reporting periods beginning on or after October 1, 1997, this ratio may not exceed the ratio for the hospital's most recent prior cost reporting period after accounting for the cap on the number of allopathic and osteopathic full-time equivalent residents as described in paragraph (f)(1)(iv) of this section, and adding to the capped numerator any dental and podiatric full-time equivalent residents. The exception for new programs described in paragraph (f)(1)(vii) of this section applies to each new program individually for which the full-time equivalent cap may be adjusted based on the period of years equal to the minimum accredited length of each new program.

* * * * *

(d) *Determination of education adjustment factor.* * * *

* * * * *

(3) * * *

(vi) For discharges occurring during fiscal year 2002, 1.6.

(vii) For discharges occurring on or after October 1, 2002, 1.35.

* * * * *

(f) *Determining the total number of full-time equivalent residents for cost reporting periods beginning on or after July 1, 1991.* * * *

(1) * * *

(ii) * * *

(C) Effective for discharges occurring on or after October 1, 1997, the time spent by a resident in a nonhospital setting in patient care activities under an approved medical residency training program is counted towards the determination of full-time equivalency if the criteria set forth in § 413.86(f)(3) or § 413.86(f)(4) of this subchapter, as applicable, are met.

(iii)(A) Full-time equivalent status is based on the total time necessary to fill a residency slot. No individual may be counted as more than one full-time equivalent. If a resident is assigned to

more than one hospital, the resident counts as a partial full-time equivalent based on the proportion of time worked in any of the areas of the hospital listed in paragraph (f)(1)(ii) of this section, to the total time worked by the resident. A part-time resident or one working in an area of the hospital other than those listed under paragraph (f)(1)(ii) of this section (such as a freestanding family practice center or an excluded hospital unit) would be counted as a partial full-time equivalent based on the proportion of time assigned to an area of the hospital listed in paragraph (f)(l)(ii) of this section, compared to the total time necessary to fill a full-time residency slot.

(B) The time spent by a resident in research that is not associated with the treatment or diagnosis of a particular patient is not countable.

* * * * *

(v) * * * If a hospital qualified for an adjustment to the limit established under paragraph (f)(1)(iv) of this section for new medical residency programs created under paragraph (f)(1)(vii) of this section, the count of residents participating in new medical residency training programs above the number included in the hospital's FTE count for the cost reporting period ending during calendar year 1996 is added after applying the averaging rules in this paragraph (f)(l)(v) for a period of years. Residents participating in new medical residency training programs are included in the hospital's FTE count before applying the averaging rules after the period of years has expired. For purposes of this paragraph, for each new program started, the period of years equals the minimum accredited length for each new program. The period of years for each new program begins when the first resident begins training in each new program. Subject to the provisions of paragraph (f)(1)(ix) of this section, FTE residents that are displaced by the closure of either another hospital or another hospital's program are added to the FTE count after applying the averaging rules in this paragraph (f)(l)(v) for the receiving hospital for the duration of time that the displaced residents are training at the receiving hospital.

* * * * *

(ix) A hospital may receive a temporary adjustment to its full-time equivalent cap to reflect residents added because of another hospital's closure if the hospital meets the criteria specified in §§ 413.86(g)(8)(i) and (g)(8)(ii) of this subchapter. If a hospital that closes its residency training program agrees to temporarily reduce its FTE cap according to the criteria specified in §§ 413.86(g)(8)(i) and (g)(8)(iii)(B) of this subchapter, another hospital(s) may receive a temporary adjustment to its FTE cap to reflect residents added because of the closure of the residency training program if the criteria specified in §§ 413.86(g)(8)(i) and (g)(8)(iii)(A) of this subchapter are met.

* * * * *

8. Section 412.106 is amended by revising the heading of paragraph (e) and paragraph (e)(5) to read as follows:

**§ 412.106 Special treatment: Hospitals that serve a disproportionate share of low-income patients.**

* * * * *

(e) *Reduction in payments beginning FY 1998.* * * *

(5) For FY 2002, 3 percent.

* * * * *

**§ 412.113 [Amended]**

9. In § 412.113(c), including the heading for paragraph (c), the term ''hospital'', wherever it appears, is revised to read ''hospital or CAH'' (16 times).

10. Section 412.230 is amended by a new paragraph (a)(5)(v) and revising paragraph (e)(2) to read as follows:

**§ 412.230 Criteria for an individual hospital seeking redesignation to another rural area or an urban area.**

(a) * * *

(5) *Limitations on redesignation.*

* * *

(v) Beginning with wage index reclassification applications for FY 2003, if a hospital is already reclassified to a given geographic area for wage index purposes for a 3-year period, and submits an application for reclassification to the same area for either the second or third year of the 3-year period, that application will not be approved.

* * * * *

(e) *Use of urban or other rural area's wage index.* * * *

* * * * *

(2) *Appropriate wage data.* For a wage index change, the hospital must submit appropriate wage data as follows:

(i) For redesignations effective through FY 2002:

(A) For hospital-specific data, the hospital must provide data from the CMS hospital wage survey used to construct the wage index in effect for prospective payment purposes during the fiscal year prior to the fiscal year for which the hospital requests reclassification.

(B) For data for other hospitals, the hospital must provide data concerning the average hourly wage in the area in which the hospital is located and the average hourly wage in the area to which the hospital seeks reclassification. The wage data are taken from the CMS hospital wage survey used to construct the wage index in effect for prospective payment purposes during the fiscal year prior to the fiscal year for which the hospital requests reclassification.

(C) If the hospital is requesting reclassification under paragraph (e)(1)(iv)(B) of this section, the hospital must provide occupational-mix data to demonstrate the average occupational mix for each employment category in the area to which it seeks reclassification. Occupational-mix data can be obtained from surveys conducted by the American Hospital Association.

(ii) For redesignations effective beginning FY 2003:

(A) For hospital-specific data, the hospital must provide a weighted 3-year average of its average hourly wages using data from the CMS hospital wage survey used to construct the wage index in effect for prospective payment purposes.

(B) For data for other hospitals, the hospital must provide a weighted 3-year average of the average hourly wage in the area in which the hospital is located and a weighted 3-year average of the average hourly wage in the area to which the hospital seeks reclassification. The wage data are taken from the CMS hospital wage survey used to construct the wage index in effect for prospective payment purposes.

* * * * *

11. Section 412.232 is amended by revising paragraph (d)(2) to read as follows:

**§ 412.232 Criteria for all hospitals in a rural county seeking urban redesignation.**

* * * * *

(d) *Appropriate data.* * * *

* * * * *

(2) *Appropriate wage data.* The hospitals must submit appropriate data as follows:

(i) For redesignations effective through FY 2002:

(A) For hospital-specific data, the hospitals must provide data from the CMS wage survey used to construct the wage index in effect for prospective payment purposes during the fiscal year prior to the fiscal year for which the hospitals request reclassification.

(B) For data for other hospitals, the hospitals must provide the following:

(*1*) The average hourly wage in the adjacent area, which is taken from the CMS hospital wage survey used to

construct the wage index in effect for prospective payment purposes during the fiscal year prior to the fiscal year for which the hospitals request reclassification.

(*2*) Occupational-mix data to demonstrate the average occupational mix for each employment category in the adjacent area. Occupational-mix data can be obtained from surveys conducted by the American Hospital Association.

(ii) For redesignations effective beginning FY 2003:

(A) For hospital-specific data, the hospital must provide a weighted 3-year average of its average hourly wages using data from the CMS hospital wage survey used to construct the wage index in effect for prospective payment purposes.

(B) For data for other hospitals, the hospital must provide a weighted 3-year average of the average hourly wage in the area in which the hospital is located and a weighted 3-year average of the average hourly wage in the area to which the hospital seeks reclassification. The wage data are taken from the CMS hospital wage survey used to construct the wage index in effect for prospective payment purposes.

12. Section 412.235 is added to read as follows:

**§ 412.235 Criteria for all hospitals in a State seeking a statewide wage index redesignation.**

(a) *General criteria.* For all prospective payment system hospitals in a State to be redesignated to a statewide wage index, the following conditions must be met:

(1) All prospective payment system hospitals in the State must apply as a group for reclassification to a statewide wage index through a signed single application.

(2) All prospective payment system hospitals in the State must agree to the reclassification to a statewide wage index through a signed affidavit on the application.

(3) All prospective payment system hospitals in the State must agree, through an affidavit, to withdrawal of an application or to termination of an approved statewide wage index reclassification.

(4) All hospitals in the State must waive their rights to any wage index classification that they would otherwise receive absent the statewide wage index classification, including a wage index that any of the hospitals might have received through individual geographic reclassification.

(5) New hospitals that open within the State prior to the deadline for submitting an application for a statewide wage index reclassification (September 1), regardless of whether a group application has already been filed, must agree to the use of the statewide wage index as part of the group application. New hospitals that open within the State after the deadline for submitting a statewide wage index reclassification application or during the approved reclassification period will be considered a party to the statewide wage index application and reclassification.

(b) *Effect on payments.*

(1) An individual hospital within the State may receive a wage index that could be higher or lower under the statewide wage index reclassification in comparison to its otherwise redesignated wage index.

(2) Any new prospective payment system hospital that opens in the State during the effective period of an approved statewide wage index reclassification will be designated to receive the statewide wage index for the duration of that period.

(c) *Terms of the decision.*

(1) A decision by the MGCRB on an application for a statewide wage index reclassification will be effective for 3 years beginning with discharges occurring on the first day (October 1) of the second Federal fiscal year following the Federal fiscal year in which the hospitals filed a complete application.

(2) The procedures and timeframes specified in § 412.273 apply to withdrawals of applications for redesignation to a statewide wage index and terminations of approved statewide wage index reclassifications, including the requirement that, to withdraw an application or terminate an approved reclassification, the request must be made in writing by all hospitals that are party to the application, except hospitals reclassified into the State for purposes of receiving the statewide wage index.

13. Section 412.273 is amended as follows:

a. The title of the section is revised.

b. Paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), respectively.

c. A new paragraph (b) is added.

d. Redesignated paragraph (c) is revised.

**§ 412.273 Withdrawing an application or terminating an approved 3-year reclassification.**

* * * * *

(b) *Request for termination of approved 3-year wage index reclassifications.*

(1) A hospital, or a group of hospitals, that has been issued a decision on its application for a 3-year reclassification for wage index purposes only or for redesignation to a statewide wage index and has not withdrawn that application under the procedures specified in paragraph (a) of this section may request termination of its approved 3-year wage index reclassification under the following conditions:

(i) The request to terminate must be received by the MGCRB within 45 days of the publication of the annual notice of proposed rulemaking concerning changes to the inpatient hospital prospective payment system and proposed payment rates for the fiscal year for which the termination is to apply.

(ii) A request to terminate a 3-year reclassification will be effective only for the full fiscal year(s) remaining in the 3-year period at the time the request is received. Requests for terminations for part of a fiscal year will not be considered.

(2) *Reapplication within the approved 3-year period.*

(i) If a hospital elects to withdraw its wage index application after the MGCRB has issued its decision, it may terminate its withdrawal in a subsequent fiscal year and request the MGCRB to reinstate its wage index reclassification for the remaining fiscal year(s) of the 3-year period.

(ii) A hospital may apply for reclassification for purposes of the wage index to a different area (that is, an area different from the one to which it was originally reclassified for the 3-year period). If the application is approved, the reclassification will be effective for 3 years.

(c) *Written request only.* A request to withdraw an application or terminate an approved reclassification must be made in writing to the MGCRB by all hospitals that are party to the application or reclassification.

* * * * *

14. Section 412.274 is amended by revising paragraph (b) to read as follow:

**§ 412.274 Scope and effect of an MGCRB decision.**

* * * * *

(b) *Effective date and term of the decision.*

(1) A standardized amount classification change is effective for one year beginning with discharges occurring on the first day (October 1) of the second Federal fiscal year following the Federal fiscal year in which the complete application is filed and ending effective at the end of that Federal fiscal year (the end of the next September 30).

(2) A wage index classification change is effective for 3 years beginning with

discharges occurring on the first day (October 1) of the second Federal fiscal year in which the complete application is filed.

* * * * *

15. Section 412.348 is amended by revising paragraph (g)(6) and adding a new paragraph (g)(9) to read as follows:

**§ 412.348 Exception payments.**

* * * * *

(g) *Special exceptions process.* * * *

(6) *Minimum payment level.*

(i) The minimum payment level for qualifying hospitals will be 70 percent.

(ii) CMS will adjust the minimum payment level in one percentage point increments as necessary to satisfy the requirement specified in paragraph (h) of this section that total estimated payments under the exceptions process not exceed 10 percent of the total estimated capital prospective payment system payments for the same fiscal year.

* * * * *

(9) *Notification requirement.* Eligible hospitals must submit documentation to the intermediary indicating the completion date of a project that meets the project need requirement under paragraph (g)(2) of this section, the project size requirement under paragraph (g)(5) of this section, and, in the case of certain urban hospitals, an excess capacity test under paragraph (g)(4) of this section, by the later of October 1, 2001 or within 3 months of the end of the hospital's last cost reporting period beginning before October 1, 2001, during which a qualifying project was completed.

* * * * *

## PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES; PROSPECTIVELY DETERMINED PAYMENT RATES FOR SKILLED NURSING FACILITIES

C. Part 413 is amended as follows:

1. The authority citation for Part 413 continues to read as follows:

**Authority:** Secs. 1102, 1812(d), 1814(b), 1815, 1833(a), (i), and (n), 1871, 1881, 1883, and 1886 of the Social Security Act (42 U.S.C. 1302, 1395d(d), 1395f(b), 1395g, 1395l(a), (i), and (n), 1395hh, 1395rr, 1395tt, and 1395ww).

2. Section 413.70 is amended as follows:

a. Paragraph (a)(1) is republished.

b. A new paragraph (a)(1)(iv) is added.

c. Paragraph (a)(2) is revised.

d. A new paragraph (a)(3) is added.

e. Paragraph (b)(1) is revised.

f. Paragraph (b)(2)(i)(C) is revised.

g. New paragraphs (b)(4), (b)(5) and (b)(6) are added.

**§ 413.70 Payment for services of a CAH.**

(a) *Payment for inpatient services furnished by a CAH.*

(1) Payment for inpatient services of a CAH is the reasonable costs of the CAH in providing CAH services to its inpatients, as determined in accordance with section 1861(v)(1)(A) of the Act and the applicable principles of cost reimbursement in this part and in Part 415 of this chapter, except that the following payment principles are excluded when determining payment for CAH inpatient services:

* * * * *

(iv) The payment window provisions for preadmission services, specified in § 412.2(c)(5) of this subchapter and § 413.40(c)(2).

(2) Except as specified in paragraph (a)(3) of this section, payment to a CAH for inpatient services does not include any costs of physician services or other professional services to CAH inpatients, and is subject to the Part A hospital deductible and coinsurance, as determined under subpart G of part 409 of this chapter.

(3) If a CAH meets the criteria in § 412.113(c) of this subchapter for pass-through of costs of anesthesia services furnished by qualified nonphysician anesthetists employed by the CAH or obtained under arrangements, payment to the CAH for the costs of those services is made in accordance with § 412.113(c).

(b) *Payment for outpatient services furnished by CAH.*

(1) *General.*

(i) Unless the CAH elects to be paid for services to its outpatients under the method specified in paragraph (b)(3) of this section, the amount of payment for outpatient services of a CAH is the amount determined under paragraph (b)(2) of this section.

(ii) Except as specified in paragraph (b)(6) of this section, payment to a CAH for outpatient services does not include any costs of physician services or other professional services to CAH outpatients.

(2) *Reasonable costs for facility services.*

(i) * * *

(C) Any type of reduction to operating or capital costs under § 413.124 or § 413.130(j).

* * * * *

(4) *Costs of emergency room on-call physicians.*

(i) Effective for cost reporting periods beginning on or after October 1, 2001, the reasonable costs of outpatient CAH services under paragraph (b) of this section may include amounts for reasonable compensation and related costs for an emergency room physician who is on call but who is not present on the premises of the CAH involved, is not otherwise furnishing physicians' services, and is not on call at any other provider or facility.

(ii) For purposes of this paragraph (b)(4)—

(A) ''Amounts for reasonable compensation and related costs'' means all allowable costs of compensating emergency room physicians who are on call to the extent the costs are found to be reasonable under the rules specified in paragraph (b)(2) of this section and the applicable sections of Part 413. Costs of compensating emergency room physicians are allowable only if the costs are incurred under written contracts that require the physician to come to the CAH when the physician's presence is medically required.

(B) An ''emergency room physician who is on call' means a doctor of medicine or osteopathy with training or experience in emergency care who is immediately available by telephone or radio contact, and is available on site within the timeframes specified in § 485.618(d) of this chapter.

(5) *Costs of ambulance services.*

(i) Effective for services furnished on or after December 21, 2000, payment for ambulance services furnished by a CAH or an entity that is owned and operated by a CAH is the reasonable costs of the CAH or the entity in furnishing those services, but only if the CAH or the entity is the only provider or supplier of ambulance services located within a 35-mile drive of the CAH or the entity.

(ii) For purposes of paragraph (b)(5) of this section, the distance between the CAH or the entity and the other provider or supplier of ambulance services will be determined as the shortest distance in miles measured over improved roads between the CAH or the entity and the site at which the vehicles of the closest provider or supplier of ambulance services are garaged. An improved road for this purpose is any road that is maintained by a local, State, or Federal government entity and is available for use by the general public. An improved road will be considered to include the paved surface up to the front entrance of the hospital and the front entrance of the garage.

(6) If a CAH meets the criteria in § 412.113(c) of this subchapter for pass-through of costs of anesthesia services furnished by nonphysician anesthetists employed by the CAH or obtained under

arrangement, payment to the CAH for the costs of those services is made in accordance with § 412.113(c) of this chapter.

* * * * *

3. Section 413.86 is amended as follows:

a. Paragraph (e)(4)(ii)(C)(*1*) is revised.

b. Paragraph (e)(5)(iv) is removed.

c. Paragraph (g)(4) is revised.

d. Paragraph (g)(5) is revised.

e. In paragraph (g)(6), the reference to ''paragraph (g)(9)'' is removed and ''paragraph (g)(12)'' is added in its place.

f. Paragraph (g)(8) is revised.

**§ 413.86 Direct graduate medical education payments.**

* * * * *

(e) *Determining per residents amounts for the base period.* * * *

(4) * * *

(ii) * * *

(C) *Determining necessary revisions to the per resident amount.* * * *

(*1*) *Floor.* (*i*) For cost reporting periods beginning on or after October 1, 2000, and before October 1, 2001, if the hospital's per resident amount would otherwise be less than 70 percent of the locality-adjusted national average per resident amount for FY 2001 (as determined under paragraph (e)(4)(ii)(B) of this section), the per resident amount is equal to 70 percent of the locality-adjusted national average per resident amount for FY 2001.

(*ii*) For cost reporting periods beginning on or after October 1, 2001, and before October 1, 2002, if the hospital's per resident amount would otherwise be less than 85 percent of the locality-adjusted national average per resident amount for FY 2002 (as determined under paragraph (e)(4)(ii)(B) of this section), the per resident amount is equal to 85 percent of the locality-adjusted national average per resident amount for FY 2002.

(*iii*) For subsequent cost reporting periods beginning on or after October 1, 2002, the hospital's per resident amount is updated using the methodology specified under paragraph (e)(3)(i) of this section.

* * * * *

(g) *Determining the weighted number of FTE residents.* * * *

(4) For purposes of determining direct graduate medical education payments—

(i) For cost reporting periods beginning on or after October 1, 1997, a hospital's unweighted FTE count for residents in allopathic and osteopathic medicine may not exceed the hospital's unweighted FTE count (or, effective for cost reporting periods beginning on or after April 1, 2000, 130 percent of the unweighted FTE count for a hospital located in a rural area) for these residents for the most recent cost reporting period ending on or before December 31, 1996.

(ii) If a hospital's number of FTE residents in a cost reporting period beginning on or after October 1, 1997, and before October 1, 2001, exceeds the limit described in this paragraph (g), the hospital's total weighted FTE count (before application of the limit) will be reduced in the same proportion that the number of FTE residents for that cost reporting period exceeds the number of FTE residents for the most recent cost reporting period ending on or before December 31, 1996.

(iii) If the hospital's number of FTE residents in a cost reporting period beginning on or after October 1, 2001 exceeds the limit described in this paragraph (g), the hospital's weighted FTE count (before application of the limit), for primary care and obstetrics and gynecology residents and nonprimary care residents, respectively, will be reduced in the same proportion that the number of FTE residents for that cost reporting period exceeds the number of FTE residents for the most recent cost reporting period ending on or before December 31, 1996.

(iv) Hospitals that are part of the same affiliated group may elect to apply the limit on an aggregate basis.

(v) The fiscal intermediary may make appropriate modifications to apply the provisions of this paragraph (g)(4) based on the equivalent of a 12-month cost reporting period.

(5) For purposes of determining direct graduate medical education payment—

(i) For the hospital's first cost reporting period beginning on or after October 1, 1997, the hospital's weighted FTE count is equal to the average of the weighted FTE count for the payment year cost reporting period and the preceding cost reporting period.

(ii) For cost reporting periods beginning on or after October 1, 1998, and before October 1, 2001, the hospital's weighted FTE count is equal to the average of the weighted FTE count for the payment year cost reporting period and the preceding two cost reporting periods.

(iii) For cost reporting periods beginning on or after October 1, 2001, the hospital's weighted FTE count for primary care and obstetrics and gynecology residents is equal to the average of the weighted primary care and obstetrics and gynecology counts for the payment year cost reporting period and the preceding two cost reporting periods, and the hospital's weighted FTE count for nonprimary care residents is equal to the average of the weighted nonprimary care FTE counts for the payment year cost reporting period and the preceding two cost reporting periods.

(iv) The fiscal intermediary may make appropriate modifications to apply the provisions of this paragraph (g)(5) based on the equivalent of 12-month cost reporting periods.

(v) If a hospital qualifies for an adjustment to the limit established under paragraph (g)(4) of this section for new medical residency programs created under paragraph (g)(6) of this section, the count of the residents participating in new medical residency training programs above the number included in the hospital's FTE count for the cost reporting period ending during calendar year 1996 is added after applying the averaging rules in this paragraph (g)(5) for a period of years. Residents participating in new medical residency training programs are included in the hospital's FTE count before applying the averaging rules after the period of years has expired. For purposes of this paragraph (g)(5), for each new program started, the period of years equals the minimum accredited length for each new program. The period of years begins when the first resident begins training in each new program.

(vi) Subject to the regulations at paragraph (g)(8) of this section, FTE residents that are displaced by the closure of either another hospital or another hospital's program are added to the FTE count after applying the averaging rules in this paragraph (g)(5) for the receiving hospital for the duration of the time that the displaced residents are training at the receiving hospital.

* * * * *

(8) *Closure of hospital or hospital residency program.*

(i) *Definitions.* For purposes of this paragraph (g)(8)—

(A) ''Closure of a hospital'' means the hospital terminates its Medicare agreement under the provisions of § 489.52 of this chapter.

(B) ''Closure of a hospital residency training program'' means the hospital ceases to offer training for residents in a particular approved medical residency training program.

(ii) *Closure of a hospital.* A hospital may receive a temporary adjustment to its FTE cap to reflect residents added because of another hospital's closure if the hospital meets the following criteria:

(A) The hospital is training additional residents from a hospital that closed on or after July 1, 1996.

(B) No later than 60 days after the hospital begins to train the residents, the hospital submits a request to its fiscal intermediary for a temporary adjustment to its FTE cap, documents that the hospital is eligible for this temporary adjustment by identifying the residents who have come from the closed hospital and have caused the hospital to exceed its cap, and specifies the length of time the adjustment is needed.

(iii) *Closure of a hospital's residency training program.* If a hospital that closes its residency training program voluntarily agrees to temporarily reduce its FTE cap according to the criteria specified in paragraph (g)(8)(iii)(B) of this section, another hospital(s) may receive a temporary adjustment to its FTE cap to reflect residents added because of the closure of the residency training program if the criteria specified in paragraph (g)(8)(iii)(A) of this section are met.

(A) *Receiving hospital(s).* A hospital may receive a temporary adjustment to its FTE cap to reflect residents added because of the closure of another hospital's residency training program if—

(*1*) The hospital is training additional residents from the residency training program of a hospital that closed a program; and

(*2*) No later than 60 days after the hospital begins to train the residents, the hospital submits to its fiscal intermediary a request for a temporary adjustment to its FTE cap, documents that it is eligible for this temporary adjustment by identifying the residents who have come from another hospital's closed program and have caused the hospital to exceed its cap, specifies the length of time the adjustment is needed, and submits to its fiscal intermediary a copy of the FTE reduction statement by the hospital that closed its program, as specified in paragraph (g)(8)(iii)(B)(*2*) of this section.

(B) *Hospital that closed its program(s).* A hospital that agrees to train residents who have been displaced by the closure of another hospital's program may receive a temporary FTE cap adjustment only if the hospital with the closed program—

(*1*) Temporarily reduces its FTE cap based on the FTE residents in each program year training in the program at the time of the program's closure. This yearly reduction in the FTE cap will be determined based on the number of those residents who would have been training in the program during that year had the program not closed; and

(*2*) No later than 60 days after the residents who were in the closed program begin training at another hospital, submit to its fiscal intermediary a statement signed and dated by its representative that specifies that it agrees to the temporary reduction in its FTE cap to allow the hospital training the displaced residents to obtain a temporary adjustment to its cap; identifies the residents who were in training at the time of the program's closure; identifies the hospitals to which the residents are transferring once the program closes; and specifies the reduction for the applicable program years.

* * * * *

## PART 485—CONDITIONS OF PARTICIPATION: SPECIALIZED PROVIDERS

D. Part 485 is amended as follows:

1. The authority citation for part 485 continues to read as follows:

**Authority:** Secs. 1102 and 1871 of the Act (42 U.S.C. 1302 and 1395hh).

2. Section 485.610 is amended by revising paragraphs (a)(2)(ii) and (b) and adding a new paragraph (c) to read as follows:

**§ 485.610 Condition of participation: Status and location.**

(a) * * *

(2) * * *

(ii) Meets the criteria for designation under this subpart as of the effective date of its designation; or

* * * * *

(b) *Standard: Location in a rural area or treatment as rural.* The CAH meets the requirements of either paragraph (b)(1) or (b)(2) of this section.

(1) The CAH meets the following requirements:

(i) The CAH is located outside any area that is a Metropolitan Statistical Area, as defined by the Office of Management and Budget, or that has been recognized as urban under § 412.62(f) of this chapter;

(ii) The CAH is not deemed to be located in an urban area under § 412.63(b) of this chapter; and

(iii) The CAH has not been classified as an urban hospital for purposes of the standardized payment amount by CMS or the Medicare Geographic Classification Review Board under § 412.230(e) of this chapter, and is not among a group of hospitals that have been redesignated to an adjacent urban area under § 412.232 of this chapter.

(2) The CAH is located within a Metropolitan Statistical Area, as defined by the Office of Management and Budget, but is being treated as being located in a rural area in accordance with § 412.103 of this chapter.

(c) *Standard: Location relative to other facilities or necessary provider certification.* The CAH is located more than a 35-mile drive (or, in the case of mountainous terrain or in areas with only secondary roads available, a 15-mile drive) from a hospital or another CAH, or the CAH is certified by the State as being a necessary provider of health care services to residents in the area.

3. Section 485.639 is amended by revising paragraph (b) to read as follows:

**§ 485.639 Condition of participation: Surgical services.**

* * * * *

(b) *Anesthetic risk and evaluation.*

(1) A qualified practitioner, as specified in paragraph (a) of this section, must examine the patient immediately before surgery to evaluate the risk of the procedure to be performed.

(2) A qualified practitioner, as specified in paragraph (c) of this section, must examine each patient before surgery to evaluate the risk of anesthesia.

(3) Before discharge from the CAH, each patient must be evaluated for proper anesthesia recovery by a qualified practitioner, as specified in paragraph (c) of this section.

* * * * *

4. Section 485.643 is amended by revising paragraph (f) to read as follows:

**§ 485.643 Condition of participation: Organ, tissue, and eye procurement.**

* * * * *

(f) For purposes of these standards, the term ''organ'' means a human kidney, liver, heart, lung, pancreas, or intestines (or multivisceral organs).

## PART 486—CONDITIONS FOR COVERAGE OF SPECIALIZED SERVICES FURNISHED BY SUPPLIERS

F. Part 486 is amended as follows:

1. The authority citation for Part 486 continues to read as follows:

**Authority:** Sections 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. Section 486.302 is amended by revising the definition of ''organ'' to read as follows:

**§ 486.302 Definitions.**

* * * * *

''Organ'' means a human kidney, liver, heart, lung, pancreas, or intestines (or multivisceral organs).

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: July 23, 2001.

**Thomas A. Scully,**

*Administrator, Centers for Medicare & Medicaid Services.*

Dated: July 24, 2001.

**Tommy G. Thompson,**

*Secretary.*

**Editorial Note:** The following Addendum and appendixes will not appear in the Code of Federal Regulations.

## Addendum—Schedule of Standardized Amounts Effective With Discharges Occurring On or After October 1, 2001 and Update Factors and Rate-of-Increase Percentages Effective With Cost Reporting Periods Beginning On or After October 1, 2001

### I. Summary and Background

In this Addendum, we are setting forth the amounts and factors for determining prospective payment rates for Medicare inpatient operating costs and Medicare inpatient capital-related costs. We are also setting forth rate-of-increase percentages for updating the target amounts for hospitals and hospital units excluded from the prospective payment system.

For discharges occurring on or after October 1, 2001, except for SCHs, MDHs, and hospitals located in Puerto Rico, each hospital's payment per discharge under the prospective payment system will be based on 100 percent of the Federal national rate.

SCHs are paid based on whichever of the following rates yields the greatest aggregate payment: the Federal national rate, the updated hospital-specific rate based on FY 1982 cost per discharge, the updated hospital-specific rate based on FY 1987 cost per discharge, or, if qualified, 50 percent of the updated hospital-specific rate based on FY 1996 cost per discharge, plus the greater of 50 percent of the updated FY 1982 or FY 1987 hospital-specific rate or 50 percent of the Federal DRG payment rate. Section 213 of Public Law 106–554 amended section 1886(b)(3) of the Act to allow all SCHs to rebase their hospital-specific rate based on their FY 1996 cost per discharge.

Under section 1886(d)(5)(G) of the Act, MDHs are paid based on the Federal national rate or, if higher, the Federal national rate plus 50 percent of the difference between the Federal national rate and the updated hospital-specific rate based on FY 1982 or FY 1987 cost per discharge, whichever is higher.

For hospitals in Puerto Rico, the payment per discharge is based on the sum of 50 percent of a Puerto Rico rate and 50 percent of a Federal national rate. (See section II.D.3. of this Addendum for a complete description.)

As discussed below in section II. of this Addendum, we are making changes in the determination of the prospective payment rates for Medicare inpatient operating costs for FY 2002. The changes, to be applied prospectively, affect the calculation of the Federal rates. In section III. of this Addendum, we finalize changes to the prospective payment rates for inpatient operating costs for FY 2001, as set forth in the June 13, 2001 interim final rule with comment period. In section IV. of this Addendum, we discuss our changes for determining the prospective payment rates for Medicare inpatient capital-related costs for FY 2002. Section V. of this Addendum sets forth our changes for determining the rate-of-increase limits for hospitals excluded from the prospective payment system for FY 2002. The tables to which we refer in the preamble to this final rule are presented at the end of this Addendum in section VI.

### II. Changes to Prospective Payment Rates for Inpatient Operating Costs for FY 2002

The basic methodology for determining prospective payment rates for inpatient operating costs is set forth at § 412.63. The basic methodology for determining the prospective payment rates for inpatient operating costs for hospitals located in Puerto Rico is set forth at §§ 412.210 and 412.212. Below, we discuss the factors used for determining the prospective payment rates. The Federal and Puerto Rico rate changes will be effective with discharges occurring on or after October 1, 2001.

In summary, the standardized amounts set forth in Tables 1A and 1C of section VI. of this Addendum reflect—

- Updates of 2.75 percent for all areas (that is, the market basket percentage increase of 3.3 percent minus 0.55 percentage points);
- An adjustment to ensure budget neutrality as provided for under sections 1886(d)(4)(C)(iii) and (d)(3)(E) of the Act, by applying new budget neutrality adjustment factors to the large urban and other standardized amounts;
- An adjustment to ensure budget neutrality as provided for in section 1886(d)(8)(D) of the Act by removing the FY 2001 budget neutrality factor and applying a revised factor;
- An adjustment to apply the revised outlier offset by removing the FY 2001 outlier offsets and applying a new offset; and
- An adjustment in the Puerto Rico standardized amounts to reflect the application of a Puerto Rico-specific wage index.

#### *A. Calculation of Adjusted Standardized Amounts*

1. Standardization of Base-Year Costs or Target Amounts

Section 1886(d)(2)(A) of the Act required the establishment of base-year cost data containing allowable operating costs per discharge of inpatient hospital services for each hospital. The preamble to the September 1, 1983 interim final rule (48 FR 39763) contains a detailed explanation of how base-year cost data were established in the initial development of standardized amounts for the prospective payment system and how they are used in computing the Federal rates.

Section 1886(d)(9)(B)(i) of the Act required us to determine the Medicare target amounts for each hospital located in Puerto Rico for its cost reporting period beginning in FY 1987. The September 1, 1987 final rule (52 FR 33043, 33066) contains a detailed explanation of how the target amounts were determined and how they are used in computing the Puerto Rico rates.

The standardized amounts are based on per discharge averages of adjusted hospital costs from a base period or, for Puerto Rico, adjusted target amounts from a base period, updated and otherwise adjusted in accordance with the provisions of section 1886(d) of the Act. Sections 1886(d)(2)(B) and (d)(2)(C) of the Act required us to update base-year per discharge costs for FY 1984 and then standardize the cost data in order to remove the effects of certain sources of cost variations among hospitals. These effects include case-mix, differences in area wage levels, cost-of-living adjustments for Alaska and Hawaii, indirect medical education (IME) costs, and costs to hospitals serving a disproportionate share of low-income patients.

Under sections 1886(d)(2)(H) and (d)(3)(E) of the Act, in making payments under the prospective payment system, the Secretary estimates from time to time the proportion of costs that are wages and wage-related costs. Since October 1, 1997, when the market basket was last revised, we have considered 71.1 percent of costs to be labor-related for purposes of the prospective payment system. The average labor share in Puerto Rico is 71.3 percent. We are revising the discharge-weighted national standardized amount for Puerto Rico to

reflect the proportion of discharges in large urban and other areas from the FY 2000 MedPAR file.

2. Computing Large Urban and Other Area Averages

Sections 1886(d)(2)(D) and (d)(3) of the Act require the Secretary to compute two average standardized amounts for discharges occurring in a fiscal year: one for hospitals located in large urban areas and one for hospitals located in other areas. In addition, under sections 1886(d)(9)(B)(iii) and (d)(9)(C)(i) of the Act, the average standardized amount per discharge must be determined for hospitals located in large urban and other areas in Puerto Rico. Hospitals in Puerto Rico are paid a blend of 50 percent of the applicable Puerto Rico standardized amount and 50 percent of a national standardized payment amount.

Section 1886(d)(2)(D) of the Act defines ''urban area'' as those areas within a Metropolitan Statistical Area (MSA). A ''large urban area'' is defined as an urban area with a population of more than 1 million. In addition, section 4009(i) of Public Law 100–203 provides that a New England County Metropolitan Area (NECMA) with a population of more than 970,000 is classified as a large urban area. As required by section 1886(d)(2)(D) of the Act, population size is determined by the Secretary based on the latest population data published by the Bureau of the Census. Urban areas that do not meet the definition of a ''large urban area'' are referred to as ''other urban areas.'' Areas that are not included in MSAs are considered ''rural areas'' under section 1886(d)(2)(D) of the Act. Payment for discharges from hospitals located in large urban areas will be based on the large urban standardized amount. Payment for discharges from hospitals located in other urban and rural areas will be based on the other standardized amount.

Based on 1999 population estimates published by the Bureau of the Census, 63 areas meet the criteria to be defined as large urban areas for FY 2002. These areas are identified in Table 4A.

3. Updating the Average Standardized Amounts

Under section 1886(d)(3)(A) of the Act, we update the average standardized amounts each year. In accordance with section 1886(d)(3)(A)(iv) of the Act, we are updating the large urban areas' and the other areas' average standardized amounts for FY 2002 using the applicable percentage increases specified in section 1886(b)(3)(B)(i) of the Act. Section 1886(b)(3)(B)(i)(XVII) of the Act as amended by section 301 of Public Law 106–554 specifies that the update factor for the standardized amounts for FY 2002 is equal to the market basket percentage increase minus 0.55 percentage points for hospitals in all areas. Section 301 also established that the update factor for FY 2003 is equal to the market basket percentage increase minus 0.55 percentage points. We are revising § 412.63 to reflect these changes.

The percentage change in the market basket reflects the average change in the price of goods and services purchased by hospitals to furnish inpatient care. The most recent forecast of the hospital market basket increase for FY 2002 is 3.3 percent. Thus, for FY 2002, the update to the average standardized amounts equals 2.75 percent for hospitals in all areas.

As in the past, we are adjusting the FY 2001 standardized amounts to remove the effects of the FY 2001 geographic reclassifications and outlier payments before applying the FY 2002 updates. That is, we are increasing the standardized amounts to restore the reductions that were made for the effects of geographic reclassification and outliers. We then apply the new offsets to the standardized amounts for outliers and geographic reclassifications for FY 2002.

Although the update factors for FY 2002 are set by law, we are required by section 1886(e)(3) of the Act to report to the Congress our initial recommendation of update factors for FY 2002 for both prospective payment hospitals and hospitals excluded from the prospective payment system.

We have included our final recommendations on the update factors in Appendix C to this final rule.

4. Other Adjustments to the Average Standardized Amounts

a. Recalibration of DRG Weights and Updated Wage Index—Budget Neutrality Adjustment

Section 1886(d)(4)(C)(iii) of the Act specifies that, beginning in FY 1991, the annual DRG reclassification and recalibration of the relative weights must be made in a manner that ensures that aggregate payments to hospitals are not affected. As discussed in section II of the preamble, we normalized the recalibrated DRG weights by an adjustment factor, so that the average case weight after recalibration is equal to the average case weight prior to recalibration.

Section 1886(d)(3)(E) of the Act requires us to update the hospital wage index on an annual basis beginning October 1, 1993. This provision also requires us to make any updates or adjustments to the wage index in a manner that ensures that aggregate payments to hospitals are not affected by the change in the wage index.

To comply with the requirement of section 1886(d)(4)(C)(iii) of the Act that DRG reclassification and recalibration of the relative weights be budget neutral, and the requirement in section 1886(d)(3)(E) of the Act that the updated wage index be budget neutral, we used FY 2000 discharge data to simulate payments and compared aggregate payments using the FY 2001 relative weights and wage index to aggregate payments using the FY 2002 relative weights and wage index. The same methodology was used for the FY 2001 budget neutrality adjustment. (See the discussion in the September 1, 1992 final rule (57 FR 39832).) Based on this comparison, we computed a budget neutrality adjustment factor equal to 0.995821. We also adjust the Puerto Rico-specific standardized amounts for the effect of DRG reclassification and recalibration. We computed a budget neutrality adjustment factor for Puerto Rico-specific standardized amounts equal to 0.997209. These budget neutrality adjustment factors are applied to the standardized amounts without removing the effects of the FY 2001 budget neutrality adjustments. For FY 2001, we used an average of the budget neutrality factor that was in effect from October 1, 2000 through March 30, 2001 and the budget neutrality factor that was in effect from April 1, 2001 through September 30, 2001 (0.997225 and 0.997122, respectively). We do not remove the prior budget neutrality adjustment because estimated aggregate payments after the changes in the DRG relative weights and wage index should equal estimated aggregate payments prior to the changes. If we removed the prior year adjustment, we would not satisfy this condition.

In addition, we will continue to apply these same adjustment factors to the hospital-specific rates that are effective for cost reporting periods beginning on or after October 1, 2001. (See the discussion in the September 4, 1990 final rule (55 FR 36073).)

b. Reclassified Hospitals—Budget Neutrality Adjustment

Section 1886(d)(8)(B) of the Act provides that, effective with discharges occurring on or after October 1, 1988, certain rural hospitals are deemed urban. In addition, section 1886(d)(10) of the Act provides for the reclassification of hospitals based on determinations by the Medicare

Geographic Classification Review Board (MGCRB). Under section 1886(d)(10) of the Act, a hospital may be reclassified for purposes of the standardized amount or the wage index, or both.

Under section 1886(d)(8)(D) of the Act, the Secretary is required to adjust the standardized amounts so as to ensure that aggregate payments under the prospective payment system after implementation of the provisions of sections 1886(d)(8)(B) and (C) and 1886(d)(10) of the Act are equal to the aggregate prospective payments that would have been made absent these provisions. To calculate this budget neutrality factor, we used FY 2000 discharge data to simulate payments, and compared total prospective payments (including IME and disproportionate share hospital (DSH) payments) prior to any reclassifications to total prospective payments after reclassifications. Based on these simulations, we are applying an adjustment factor of 0.990675 to ensure that the effects of reclassification are budget neutral.

The adjustment factor is applied to the standardized amounts after removing the effects of the FY 2001 budget neutrality adjustment factor. We note that the proposed FY 2002 adjustment reflected wage index and standardized amount reclassifications approved by the MGCRB or the Administrator as of February 28, 2001, and the effects of section 304 of Public Law 106–554 to extend wage index reclassifications for 3 years. The effects of any additional reclassification changes that occurred as a result of appeals and reviews of the MGCRB decisions for FY 2002 or from a hospital's request for the withdrawal of a reclassification request for FY 2002 are reflected in the final budget neutrality adjustment required under section 1886(d)(8)(D) of the Act and published in this final rule.

c. Outliers

Section 1886(d)(5)(A) of the Act provides for payments in addition to the basic prospective payments for ''outlier'' cases, cases involving extraordinarily high costs (cost outliers). Section 1886(d)(3)(B) of the Act requires the Secretary to adjust both the large urban and other area national standardized amounts by the same factor to account for the estimated proportion of total DRG payments made to outlier cases. Similarly, section 1886(d)(9)(B)(iv) of the Act requires the Secretary to adjust the large urban and other standardized amounts applicable to hospitals in Puerto Rico to account for the estimated proportion of total DRG payments made to outlier cases. Furthermore, under section 1886(d)(5)(A)(iv) of the Act, outlier payments for any year must be projected to be not less than 5 percent nor more than 6 percent of total payments based on DRG prospective payment rates.

i. FY 2002 outlier thresholds. For FY 2001, the fixed loss cost outlier threshold published in the August 1, 2000 final rule was equal to the prospective payment rate for the DRG plus the IME and DSH payments plus $17,550 ($16,036 for hospitals that have not yet entered the prospective payment system for capital-related costs). As a result of the change made by Public Law 106–554 to the update factor for the operating standardized amounts, this threshold was applicable for discharges on or after October 1, 2000 and before April 1, 2001. For discharges occurring on or after April 1, 2001 and before October 1, 2001, the threshold was equal to the prospective payment rate for the DRG plus the IME and DSH payments plus $16,350 ($14,940 for hospitals that have not yet entered the prospective payment system for capital-related costs). The revision to the threshold was discussed in the interim final rule with comment period published on June 13, 2001 (66 FR 32176). (In the June 13, 2001 interim final rule with comment period, the fixed loss amount was stated as $16,500. This was an error; the correct amount is $16,350. This is the amount that has been applied to discharges since April 1, 2001, in the PRICER software used to determine payments.) The marginal cost factor for cost outliers (the percent of costs paid after costs for the case exceed the threshold) was 80 percent.

For FY 2002, we proposed to establish a fixed loss cost outlier threshold equal to the prospective payment rate for the DRG plus the IME and DSH payments plus $21,000. The capital prospective payment system is fully phased in, effective FY 2002. Therefore, we no longer are establishing a separate threshold for hospitals that have not yet entered the prospective payment system for capital-related costs. We proposed to maintain the marginal cost factor for cost outliers at 80 percent.

In this final rule, we are establishing a fixed loss cost outlier threshold equal to the prospective rate for the DRG plus the IME and DSH payment plus $21,025. In addition, we are maintaining the marginal cost factor for cost outliers at 80 percent. To calculate the final FY 2002 outlier thresholds, we simulated payments by applying FY 2002 rates and policies to the March 2001 update of the FY 2000 MedPAR file and the March 2001 update of the Provider-Specific File.

We apply a cost inflation factor to update costs for the cases used to simulate payments. For FY 2000, we used a cost inflation factor of zero percent. For FY 2001, we used a cost inflation factor (or cost adjustment factor) of 1.8 percent. To set the proposed FY 2002 outlier thresholds, we used a 2-year cost inflation factor of 5.5 percent (to inflate FY 2000 charges to FY 2002). We are using a cost inflation factor of 2.8 percent per year to set the final FY 2002 outlier thresholds (this equates to a 2-year cost inflation factor of 5.7 percent). This factor reflects our analysis of the best available cost report data as well as calculations (using the best available data) indicating that the percentage of actual outlier payments for FY 2000 is higher than we projected before the beginning of FY 2000, and that the percentage of actual outlier payments for FY 2001 will likely be higher than we projected before the beginning of FY 2001. The calculations of ''actual'' outlier payments are discussed further below.

*Comment:* Several commenters noted that the proposed threshold was almost 20 percent higher than the threshold effective for FY 2001. The commenters believed that we should verify the amount of cost outliers paid in a year and reconcile accordingly. One commenter also suggested that we amend our method of calculating the threshold so that the threshold is set at a level that reflects FY 2001 threshold plus a reasonable updating factor to account for inflation.

*Response:* As indicated in the proposed rule, and as explained in numerous previous **Federal Register** documents, under the policy we have maintained since the inception of the hospital inpatient prospective payment system for operating costs, we do not make retroactive adjustments to reconcile differences between the percentage of outlier payments projected before a given fiscal year and the ''actual'' outlier payments for that fiscal year.

In accordance with section 1886(d)(5)(A) of the Act, we set outlier thresholds for an upcoming fiscal year so that outlier payments for the fiscal year are projected to equal a specified percentage between 5 and 6 percent of total payments based on DRG prospective payment rates. To set the thresholds, we simulate payments using the best available data. We believe that the methodology suggested by the commenter, simply updating the FY 2001 thresholds to account for inflation,

would not be appropriate because, among other reasons, the methodology would not reflect the use of the most recent complete data with respect to discharges and costs. The difference between the FY 2001 outlier thresholds and the FY 2002 outlier thresholds arises from differences reflected in the data used to set the respective thresholds.

ii. Other changes concerning outliers. In accordance with section 1886(d)(5)(A)(iv) of the Act, we calculated outlier thresholds so that outlier payments are projected to equal 5.1 percent of total payments based on DRG prospective payment rates. In accordance with section 1886(d)(3)(E), we reduced the FY 2002 standardized amounts by the same percentage to account for the projected proportion of payments paid to outliers.

As stated in the September 1, 1993 final rule (58 FR 46348), we establish outlier thresholds that are applicable to both inpatient operating costs and inpatient capital-related costs. When we modeled the combined operating and capital outlier payments, we found that using a common set of thresholds resulted in a higher percentage of outlier payments for capital-related costs than for operating costs. We project that the thresholds for FY 2002 will result in outlier payments equal to 5.1 percent of operating DRG payments and 5.8 percent of capital payments based on the Federal rate.

The proposed outlier adjustment factors applied to the standardized amounts for FY 2002 were as follows:

| | Operating standardized amounts | Capital federal rate |
|---|---|---|
| National ..... | 0.948910 | 0.974711 |
| Puerto Rico ..... | 0.942593 | 0.970336 |

Based on simulations of payments using updated data, the final outlier adjustment factors applied to the standardized amounts for FY 2002 are as follows:

| | Operating standardized amounts | Capital federal rate |
|---|---|---|
| National ..... | 0.948928 | 0.942440 |
| Puerto Rico ..... | 0.974762 | 0.970140 |

As in the proposed rule, we apply the outlier adjustment factors after removing the effects of the FY 2001 outlier adjustment factors on the standardized amounts.

Table 8A in section VI. of this Addendum contains the updated statewide average operating cost-to-charge ratios for urban hospitals and for rural hospitals to be used in calculating cost outlier payments for those hospitals for which the fiscal intermediary is unable to compute a reasonable hospital-specific cost-to-charge ratio. These statewide average ratios replace the ratios published in the August 1, 2000 final rule (65 FR 47054). Table 8B contains comparable statewide average capital cost-to-charge ratios. These average ratios will be used to calculate cost outlier payments for those hospitals for which the fiscal intermediary computes operating cost-to-charge ratios lower than 0.1903547 or greater than 1.3148656 and capital cost-to-charge ratios lower than 0.0119230 or greater than 0.1677417. This range represents 3.0 standard deviations (plus or minus) from the mean of the log distribution of cost-to-charge ratios for all hospitals. We note that the cost-to-charge ratios in Tables 8A and 8B will be used during FY 2002 when hospital-specific cost-to-charge ratios based on the latest settled cost report are either not available or outside the three standard deviations range.

iii. FY 2000 and FY 2001 outlier payments. In the August 1, 2000 final rule (65 FR 47054), we stated that, based on available data, we estimated that actual FY 2000 outlier payments would be approximately 6.2 percent of actual total DRG payments. This was computed by simulating payments using the March 2000 update of the FY 1999 bill data available at the time. That is, the estimate of actual outlier payments did not reflect actual FY 2000 bills but instead reflected the application of FY 2000 rates and policies to available FY 1999 bills. Our current estimate, using available FY 2000 bills, is that actual outlier payments for FY 2000 were approximately 7.6 percent of actual total DRG payments. We note that the MedPAR file for FY 2000 discharges continues to be updated. Thus, the data indicate that, for FY 2000, the percentage of actual outlier payments relative to actual total payments is higher than we projected before FY 2000 (and thus exceeds the percentage by which we reduced the standardized amounts for FY 2000). In fact, the data indicate that the proportion of actual outlier payments for FY 2000 exceeds 6.0 percent. Nevertheless, consistent with the policy and statutory interpretation we have maintained since the inception of the prospective payment system, we do not plan to recoup money and make retroactive adjustments to outlier payments for FY 2000.

We currently estimate that actual outlier payments for FY 2001 will be approximately 6.2 percent of actual total DRG payments, 1.1 percentage points higher than the 5.1 percent we projected in setting outlier policies for FY 2001. This estimate is based on simulations using the March 2001 update of the Provider-Specific File and the March 2001 update of the FY 2000 MedPAR file (discharge data for FY 2000 bills). We used these data to calculate an estimate of the actual outlier percentage for FY 2001 by applying FY 2001 rates and policies to available FY 2000 bills.

5. FY 2002 Standardized Amounts

The adjusted standardized amounts are divided into labor and nonlabor portions. Table 1A contains the two national standardized amounts that are applicable to all hospitals, except hospitals in Puerto Rico. Under section 1886(d)(9)(A)(ii) of the Act, the Federal portion of the Puerto Rico payment rate is based on the discharge-weighted average of the national large urban standardized amount and the national other standardized amount (as set forth in Table 1A). The labor and nonlabor portions of the national average standardized amounts for Puerto Rico hospitals are set forth in Table 1C. This table also includes the Puerto Rico standardized amounts.

*Comment:* Several commenters were unable to reconcile the standardized amounts published in the proposed rule for FY 2002 with the rates which were in effect for FY 2001. These commenters requested that we clarify, by category, the increases and decreases applied to the standardized amounts in the proposed rule in order to illustrate the method under which the rates were established.

*Response:* The confusion likely arises from the two different rates that were effective during FY 2001. Prior to the passage of Public Law 106–554, section 1886(b)(3)(B)(i) of the Act set the update to the standardized amounts for FY 2001 as the market basket percentage increase minus 1.1 percentage points. Section 301(a) of Public Law 106–554 revised section 1886(b)(3)(B)(i) of the Act to set the update to the standardized amounts for FY 2001 equal to the full market basket percentage increase.

Further, section 301(b) of Public Law 106–554 included a special provision to implement the full market basket update for purposes of making payments for FY 2001 only. Under this special provision, for discharges occurring on or after October 1, 2000 and before April 1, 2001, the update factor (other than for SCHs) is equal to the market basket percentage increase minus 1.1

percentage points. For discharges occurring on or after April 1, 2001 and before October 1, 2001, the update factor (other than SCHs) is equal to the market basket percentage increase plus 1.1 percentage points.

However, section 547 of Public Law 106–554 makes this special rule applicable solely to payments in FY 2001 and the payment increases under section 301(b) in this fiscal year are not to be taken into account in developing payments for future fiscal years. Consequently, when we established the rates for FY 2002, we based the calculation on FY 2001 standardized amounts reflecting the full FY 2001 market basket percentage increase of 3.4 percent. Since the standardized amounts calculated using the full market basket were not actually used for payment during FY 2001, they were not published in either the August 1, 2000 final rule or the June 13, 2001 interim final rule with comment period.

To arrive at the final FY 2002 standardized amounts, we updated the standardized amounts through FY 2001 using the full market basket of 3.4 percent (without applying a geographic budget neutrality factor or outlier factor), then multiplied this amount by: the update factor for FY 2002; the wage and recalibration budget neutrality factor; the geographic reclassification budget neutrality factor; and the outlier factor established for FY 2002. The calculation below details this reconciliation process using the large urban area standardized amount as an example. Although the commenters requested a reconciliation of the proposed rates, the example below reconciles the final FY 2002 rates, as those are the amounts actually in effect for the fiscal year. To reconcile the rates in the proposed rule, the exact same methodology applies.

EXAMPLE OF THE CALCULATION OF THE FY 2002 FINAL STANDARDIZED AMOUNT FOR LARGE URBAN AREAS

| | Labor | Nonlabor |
|---|---|---|
| FY 2001 Standardized Amount with Full Market Basket Update/No Reclassification, Budget Neutrality or Outlier Offset | $3,072.51 | $1,248.88 |
| Update Factor: (Market Basket Percentage Increase minus 0.55 percent) | 1.0275 | 1.0275 |
| FY 2002 Wage Index and DRG reclassification/recalculation budget neutrality factor | 0.995821 | 0.995821 |
| FY 2002 Reclassification budget neutrality factor | 0.990675 | 0.990675 |
| Outlier Factor | 0.948928 | 0.948928 |
| Final Rate for FY 2002 (after multiplying FY 2001 base rate by above factors) | $2,955.44 | $1,201.30 |

*B. Adjustments for Area Wage Levels and Cost of Living*

Tables 1A and 1C, as set forth in this Addendum, contain the labor-related and nonlabor-related shares that will be used to calculate the prospective payment rates for hospitals located in the 50 States, the District of Columbia, and Puerto Rico. This section addresses two types of adjustments to the standardized amounts that are made in determining the prospective payment rates as described in this Addendum.

1. Adjustment for Area Wage Levels

Sections 1886(d)(3)(E) and 1886(d)(9)(C)(iv) of the Act require that we make an adjustment to the labor-related portion of the prospective payment rates to account for area differences in hospital wage levels. This adjustment is made by multiplying the labor-related portion of the adjusted standardized amounts by the appropriate wage index for the area in which the hospital is located. In section III. of this preamble, we discuss the data and methodology for the FY 2002 wage index. The wage index is set forth in Tables 4A, 4B, 4C, and 4F of this Addendum.

2. Adjustment for Cost-of-Living in Alaska and Hawaii

Section 1886(d)(5)(H) of the Act authorizes an adjustment to take into account the unique circumstances of hospitals in Alaska and Hawaii. Higher labor-related costs for these two States are taken into account in the adjustment for area wages described above. For FY 2002, we are adjusting the payments for hospitals in Alaska and Hawaii by multiplying the nonlabor portion of the standardized amounts by the appropriate adjustment factor contained in the table below.

TABLE OF COST-OF-LIVING ADJUSTMENT FACTORS, ALASKA AND HAWAII HOSPITALS

| | |
|---|---|
| Alaska—All areas | 1.25 |
| Hawaii: | |
| County of Honolulu | 1.25 |
| County of Hawaii | 1.165 |
| County of Kauai | 1.2325 |
| County of Maui | 1.2375 |
| County of Kalawao | 1.2375 |

(The above factors are based on data obtained from the U.S. Office of Personnel Management.)

*C. DRG Relative Weights*

As discussed in section II. of the preamble, we have developed a classification system for all hospital discharges, assigning them into DRGs, and have developed relative weights for each DRG that reflect the resource utilization of cases in each DRG relative to Medicare cases in other DRGs. Table 5 of section VI. of this Addendum contains the relative weights that we will use for discharges occurring in FY 2002. These factors have been recalibrated as explained in section II. of the preamble.

*D. Calculation of Prospective Payment Rates for FY 2002*

General Formula for Calculation of Prospective Payment Rates for FY 2002

The prospective payment rate for all hospitals located outside of Puerto Rico, except SCHs and MDHs, equals the Federal rate.

The prospective payment rate for SCHs equals whichever of the following rates yields the greatest aggregate payment: the Federal rate, the updated hospital-specific rate based on FY 1982 cost per discharge, the updated hospital-specific rate based on FY 1987 cost per discharge, or, if qualified, 50 percent of the updated hospital-specific rate based on FY 1996 cost per discharge, plus the greater of 50 percent of the updated FY 1982 or FY 1987 hospital-specific rate or 50 percent of the Federal rate. Section 213 of Public Law 106–554 amended section 1886(b)(3) of the Act to allow all SCHs to rebase their hospital-specific rate based on their FY 1996 cost per discharge.

The prospective payment rate for MDHs equals 100 percent of the Federal rate, or, if the greater of the updated FY 1982 hospital-specific rate or the updated FY 1987 hospital-specific rate is higher than the Federal rate, 100 percent of the Federal rate plus 50 percent of the difference between the applicable hospital-specific rate and the Federal rate.

The prospective payment rate for Puerto Rico equals 50 percent of the

Puerto Rico rate plus 50 percent of a discharge-weighted average of the Federal large urban standardized amount and the Federal other standardized amount.

1. Federal Rate

For discharges occurring on or after October 1, 2001 and before October 1, 2002, except for SCHs, MDHs, and hospitals in Puerto Rico, the hospital's payment is based exclusively on the Federal national rate. The payment amount is determined as follows:

Step 1—Select the appropriate national standardized amount considering the type of hospital and designation of the hospital as large urban or other (see Table 1A in section VI. of this Addendum).

Step 2—Multiply the labor-related portion of the standardized amount by the applicable wage index for the geographic area in which the hospital is located (see Tables 4A, 4B, and 4C of section VI. of this Addendum).

Step 3—For hospitals in Alaska and Hawaii, multiply the nonlabor-related portion of the standardized amount by the appropriate cost-of-living adjustment factor.

Step 4—Add the amount from Step 2 and the nonlabor-related portion of the standardized amount (adjusted, if appropriate, under Step 3).

Step 5—Multiply the final amount from Step 4 by the relative weight corresponding to the appropriate DRG (see Table 5 of section VI. of this Addendum).

2. Hospital-Specific Rate (Applicable Only to SCHs and MDHs)

Section 1886(b)(3)(C) of the Act provides that SCHs are paid based on whichever of the following rates yields the greatest aggregate payment: the Federal rate, the updated hospital-specific rate based on FY 1982 cost per discharge, the updated hospital-specific rate based on FY 1987 cost per discharge, or, if qualified, 50 percent of the updated hospital-specific rate based on FY 1996 cost per discharge, plus the greater of 50 percent of the updated FY 1982 or FY 1987 hospital-specific rate or 50 percent of the Federal DRG payment rate.

Section 1886(d)(5)(G) of the Act provides that MDHs are paid based on whichever of the following rates yields the greatest aggregate payment: the Federal rate or the Federal rate plus 50 percent of the difference between the Federal rate and the greater of the updated hospital-specific rate based on FY 1982 and FY 1987 cost per discharge.

Hospital-specific rates have been determined for each of these hospitals based on either the FY 1982 cost per discharge, the FY 1987 cost per discharge or, for qualifying SCHs, the FY 1996 cost per discharge. For a more detailed discussion of the calculation of the hospital-specific rates, we refer the reader to the September 1, 1983 interim final rule (48 FR 39772); the April 20, 1990 final rule with comment (55 FR 15150); the September 4, 1990 final rule (55 FR 35994); and the August 1, 2000 final rule (65 FR 47082).

a. Updating the FY 1982, FY 1987, and FY 1996 Hospital-Specific Rates for FY 2002

We are increasing the hospital-specific rates by 2.75 percent (the hospital market basket percentage increase minus 0.55 percentage points) for SCHs and MDHs for FY 2002. Section 1886(b)(3)(C)(iv) of the Act provides that the update factor applicable to the hospital-specific rates for SCHs equal the update factor provided under section 1886(b)(3)(B)(iv) of the Act, which, for SCHs in FY 2002, is the market basket rate of increase minus 0.55 percentage points. Section 1886(b)(3)(D) of the Act provides that the update factor applicable to the hospital-specific rates for MDHs equals the update factor provided under section 1886(b)(3)(B)(iv) of the Act, which, for FY 2002, is the market basket rate of increase minus 0.55 percentage points.

b. Calculation of Hospital-Specific Rate

For SCHs, the applicable FY 2002 hospital-specific rate is based on the following: the hospital-specific rate calculated using the greater of the FY 1982 or FY 1987 costs, increased by the applicable update factor; or, if the hospital-specific rate based on cost per case in FY 1996 is greater than the hospital-specific rate using either the FY 1982 or the FY 1987 costs, the greater of 50 percent of the hospital-specific rate based on the FY 1982 or FY 1987 costs, increased by the applicable update factor, or 50 percent of the Federal rate plus 50 percent of its rebased FY 1996 hospital-specific rate updated through FY 2002. For MDHs, the applicable FY 2002 hospital-specific rate is calculated by increasing the hospital's hospital-specific rate for the preceding fiscal year by the applicable update factor, which is the same as the update for all prospective payment hospitals. In addition, for both SCHs and MDHs, the hospital-specific rate is adjusted by the budget neutrality adjustment factor (that is, by 0.995821) as discussed in section II.A.4.a. of this Addendum. The resulting rate is used in determining the payment rate an SCH or MDH is paid for its discharges beginning on or after October 1, 2001.

3. General Formula for Calculation of Prospective Payment Rates for Hospitals Located in Puerto Rico Beginning On or After October 1, 2001 and Before October 1, 2002

a. Puerto Rico Rate

The Puerto Rico prospective payment rate is determined as follows:

Step 1—Select the appropriate adjusted average standardized amount considering the large urban or other designation of the hospital (see Table 1C of section VI. of the Addendum).

Step 2—Multiply the labor-related portion of the standardized amount by the appropriate Puerto Rico-specific wage index (see Table 4F of section VI. of the Addendum).

Step 3—Add the amount from Step 2 and the nonlabor-related portion of the standardized amount.

Step 4—Multiply the result in Step 3 by 50 percent.

Step 5—Multiply the amount from Step 4 by the appropriate DRG relative weight (see Table 5 of section VI. of the Addendum).

b. National Rate

The national prospective payment rate is determined as follows:

Step 1—Multiply the labor-related portion of the national average standardized amount (see Table 1C of section VI. of the Addendum) by the appropriate national wage index (see Tables 4A and 4B of section VI. of the Addendum).

Step 2—Add the amount from Step 1 and the nonlabor-related portion of the national average standardized amount.

Step 3—Multiply the result in Step 2 by 50 percent.

Step 4—Multiply the amount from Step 3 by the appropriate DRG relative weight (see Table 5 of section VI. of the Addendum).

The sum of the Puerto Rico rate and the national rate computed above equals the prospective payment for a given discharge for a hospital located in Puerto Rico.

## III. Changes to the Prospective Payment Rates for Inpatient Operating Costs for FY 2001 (Section 301 of Public Law 106–554 and 42 CFR 412.63(s))

In the June 13, 2001 interim final rule with comment period, we implemented section 301(a) of Public Law 106–554 as it applied to FY 2001. Section 301(a) amended section 1886(b)(3)(B)(i) of the Act by changing the percentage increase for the hospital inpatient payment rates

for FYs 2001, 2002, and 2003. Previously, section 1886(b)(3)(B)(i) (as amended by section 406 of Public Law 106–113) established the update factor to the payment rates for inpatient prospective payment system hospitals (other than SCHs, who received the full market basket update effective October 1, 2000) as the market basket percentage increase minus 1.1 percent for FYs 2001 and 2002; the update factor for FY 2003 and subsequent fiscal years was established as the full market basket percentage increase. Section 301(a) of Public Law 106–554 amended section 1886(b)(3)(B)(i) of the Act and changed the update factor for FY 2001 to the full market basket percentage increase. (Section 301(a) also revised the update factors that apply to FYs 2002 and 2003, as discussed in section II. of this Addendum.) Prior to enactment of Public Law 106–554, the update factor for FY 2002 was the market basket percentage increase minus 1.1 percentage points and the update factor for FY 2003 was the full market basket percentage increase. Section 301(a) of Public Law 106–554 amended section 1886(b)(3)(B)(i) of the Act to revise the update factor for FYs 2002 and 2003 to be the market basket percentage increase minus 0.55 percentage points.

Further, section 301(b) of Public Law 106–554 provided a special rule to implement the full market basket update to inpatient hospital prospective payment rates for FY 2001. Under this special rule, for discharges occurring on or after October 1, 2000 and before April 1, 2001, the update factor for inpatient prospective payment system hospitals (other than SCHs) is equal to the market basket percentage increase minus 1.1 percentage points. For discharges occurring on or after April 1, 2001 and before October 1, 2001, the update factor for the payment rates for inpatient prospective payment system hospitals (other than SCHs) is equal to the market basket percentage increase plus 1.1 percentage points. Section 547 of Public Law 106–554 makes this special rule applicable solely to payments in FY 2001 and the payment increases resulting for FY 2001 are not taken into account in developing payments for future fiscal years.

As directed by the special rule in section 301(b) of Public Law 106–554, any discharges occurring on or after October 1, 2000, and before April 1, 2001, are paid in accordance with the standardized amounts set forth in the FY 2001 hospital inpatient prospective payment system final rule published in the August 1, 2000 **Federal Register** (65 FR 47126). These rates were calculated using the market basket percentage increase of 3.4 percent minus 1.1 percentage points, for a 2.3 percent increase (see 65 FR 47112), as directed by section 1886(b)(3)(B)(i) of the Act prior to the passage of Public Law 106–554.

To implement the special rule under section 301(b) of Public Law 106–554, in the June 13 interim final rule with comment period, we recomputed the standardized amounts effective for discharges occurring on or after April 1, 2001. That is, we replaced the update factor of 2.3 percent applied to the standardized amounts in the August 1, 2000 final rule, with the update factor of 4.5 percent (the market basket percentage increase plus 1.1 percentage points, or 3.4 plus 1.1 percentage points).

| | Large urban areas | | Other areas | |
|---|---|---|---|---|
| | Labor-related | Nonlabor-related | Labor-related | Nonlabor-related |
| National | $2,925.82 | $1,189.26 | $2,879.51 | $1,170.43 |
| National PR | 2,900.64 | 1,179.02 | 2,900.64 | 1,179.02 |
| Puerto Rico | 1,402.79 | 564.66 | 1,380.58 | 555.72 |
| SCHs | 2,895.02 | 1,176.74 | 2,849.20 | 1,158.11 |

*A. Budget Neutrality*

Section 1886(d)(4)(C)(iii) of the Act specifies that, beginning in FY 1991, the annual DRG reclassification and recalibration of the relative weights must be made in a manner that ensures that aggregate payments to hospitals are projected to be the same as those that would have been made without such adjustments. Section 1886(d)(3)(E) of the Act requires us to update the hospital wage index on an annual basis beginning October 1, 1993. This provision also requires us to make any updates or adjustments to the wage index in a manner that ensures that aggregate payments to hospitals are projected to be the same as those that would have been made without the change in the wage index.

Finally, under section 1886(d)(8)(D) of the Act, the Secretary is required to adjust the standardized amounts so as to ensure that final aggregate payments under the prospective payment system are projected to equal the aggregate prospective payments that would have been made absent the geographic reclassification provisions of sections 1886(d)(8)(B) and (C) and 1886(d)(10) of the Act.

The distributive effects on hospital payments of the IME and DSH changes also included in Public Law 106–554 required us to recalculate the budget neutrality factors that are required by section 1886(d)(8)(D) of the Act.

As we stated in the June 13, 2001 interim final rule with comment period, the budget neutrality factors that were used to establish the standardized amounts effective for discharges occurring on or after October 1, 2000 were: 0.997225 for the DRG reclassification and recalibration and updated wage index (65 FR 47112); and 0.993187 for geographic reclassification (65 FR 47113). Using the same methodology that was used to calculate the budget neutrality factors in the August 1, 2000 final rule, the corresponding budget neutrality factors for the standardized amounts effective for discharges occurring on or after April 1, 2001 and before October 1, 2001 are 0.997122 and 0.993279. The FY 2001 budget neutrality factor for Puerto Rico did not change. Therefore, the budget neutrality factor for Puerto Rico as published in the August 1, 2000 **Federal Register** (65 FR 47112) remained in effect for discharges occurring on or after April 1, 2001 and before October 1, 2001.

*B. Outliers*

In accordance with section 1886(d)(3)(B) of the Act, which directs the Secretary to adjust the national standardized amounts to account for the estimated proportion of total payments made to outlier cases, the fixed-loss outlier threshold was also revised as a result of the change made by Public Law 106–554 to the update factor for the operating standardized amounts. For discharges occurring on or after April 1, 2001 and before October 1, 2001, we established a fixed-loss cost outlier threshold equal to the prospective payment rate for the DRG, plus IME and

DSH payments, plus $16,350 ($14,940 for hospitals that have not yet entered the prospective payment system for capital-related costs). (In the June 13, 2001 interim final rule with comment period, the fixed loss amount was stated as $16,500. This was an error. The correct amount is $16,350. This is the amount that has been applied to discharges since April 1, 2001, in the PRICER software used to determine payments.) In determining the outlier threshold, we used the same methodology employed to determine the outlier threshold for FY 2001 (65 FR 47113 through 47114). Outlier payments for discharges occurring on or after October 1, 2000 and before April 1, 2001, will be determined in accordance with the standardized amounts and outlier thresholds set forth in the FY 2001 final rule published in the August 1, 2000 **Federal Register** (65 FR 47113).

Although the market basket percentage used to update SCHs was not revised by Public Law 106–554, the standardized amounts applied to these hospitals for discharges occurring on or after April 1, 2001 and before October 1, 2001 also increase slightly. This increase in SCH rates is due to the budget neutrality factors effective for this portion of the fiscal year.

For discharges occurring on or after April 1, 2001 and before October 1, 2001, the outlier adjustment factors are as follows:

| | Operating standardized amounts | Capital federal rate |
|---|---|---|
| National ..... | 0.948929 | 0.937854 |
| Puerto Rico ..... | 0.973671 | 0.967355 |

## III. Changes to Payment Rates for Inpatient Capital-Related Costs for FY 2002

The prospective payment system for hospital inpatient capital-related costs was implemented for cost reporting periods beginning on or after October 1, 1991. Effective with that cost reporting period and during a 10-year transition period extending through FY 2001, hospital inpatient capital-related costs are paid on the basis of an increasing proportion of the capital prospective payment system Federal rate and a decreasing proportion of a hospital's historical costs for capital.

The basic methodology for determining Federal capital prospective rates is set forth at §§ 412.308 through 412.352. Below we discuss the factors that we used to determine the capital Federal rate rate and the hospital-specific rates for FY 2002. The rates, which will be effective for discharges occurring on or after October 1, 2001. As we stated in section V. of the preamble of this final rule, we are no longer determining an update to the capital hospital-specific rate, since FY 2001 is the last year of the 10-year transition period, and beginning in FY 2002 all hospitals (except ''new'' hospitals under § 412.324(b)) will be paid based on 100 percent of the capital Federal rate.

For FY 1992, we computed the standard Federal payment rate for capital-related costs under the prospective payment system by updating the FY 1989 Medicare inpatient capital cost per case by an actuarial estimate of the increase in Medicare inpatient capital costs per case. Each year after FY 1992, we update the standard Federal rate, as provided in § 412.308(c)(1), to account for capital input price increases and other factors. Also, § 412.308(c)(2) provides that the Federal rate is adjusted annually by a factor equal to the estimated proportion of outlier payments under the Federal rate to total capital payments under the Federal rate. In addition, § 412.308(c)(3) requires that the Federal rate be reduced by an adjustment factor equal to the estimated proportion of payments for (regular and special) exceptions under § 412.348. Furthermore, § 412.308(c)(4)(ii) requires that the Federal rate be adjusted so that the annual DRG reclassification and the recalibration of DRG weights and changes in the geographic adjustment factor are budget neutral. For FYs 1992 through 1995, § 412.352 required that the Federal rate also be adjusted by a budget neutrality factor so that aggregate payments for inpatient hospital capital costs were projected to equal 90 percent of the payments that would have been made for capital-related costs on a reasonable cost basis during the fiscal year. That provision expired in FY 1996. Section 412.308(b)(2) describes the 7.4 percent reduction to the rate that was made in FY 1994, and § 412.308(b)(3) describes the 0.28 percent reduction to the rate made in FY 1996 as a result of the revised policy of paying for transfers. In the FY 1998 final rule with comment period (62 FR 45966), we implemented section 4402 of Public Law 105–33, which requires that for discharges occurring on or after October 1, 1997, and before October 1, 2002, the unadjusted standard Federal rate is reduced by 17.78 percent. A small part of that reduction will be restored effective October 1, 2002.

To determine the appropriate budget neutrality adjustment factor and the regular exceptions payment adjustment, we developed a dynamic model of Medicare inpatient capital-related costs, that is, a model that projects changes in Medicare inpatient capital-related costs over time. With the expiration of the budget neutrality provision, the model is still used to estimate the regular exceptions payment adjustment and other factors. The model and its application are described in greater detail in Appendix B of this final rule.

In accordance with section 1886(d)(9)(A) of the Act, under the prospective payment system for inpatient operating costs, hospitals located in Puerto Rico are paid for operating costs under a special payment formula. Prior to FY 1998, hospitals in Puerto Rico were paid a blended rate that consisted of 75 percent of the applicable standardized amount specific to Puerto Rico hospitals and 25 percent of the applicable national average standardized amount. However, effective October 1, 1997, as a result of section 4406 of Public Law 105–33, operating payments to hospitals in Puerto Rico are based on a blend of 50 percent of the applicable standardized amount specific to Puerto Rico hospitals and 50 percent of the applicable national average standardized amount. In conjunction with this change to the operating blend percentage, effective with discharges on or after October 1, 1997, we compute capital payments to hospitals in Puerto Rico based on a blend of 50 percent of the Puerto Rico rate and 50 percent of the Federal rate.

Section 412.374 provides for the use of this blended payment system for payments to Puerto Rico hospitals under the prospective payment system for inpatient capital-related costs. Accordingly, for capital-related costs, we compute a separate payment rate specific to Puerto Rico hospitals using the same methodology used to compute the national Federal rate for capital.

### *A. Determination of Federal Inpatient Capital-Related Prospective Payment Rate Update*

In the August 1, 2000 final rule (65 FR 47122), we established a Federal rate of $382.03 for FY 2001. In the June 13, 2001 interim final rule with comment, as a result of implementing section 301(b) of Public Law 106–554, we established a Federal rate of $380.85 for discharges occurring on or after April 1, 2001 and before October 1, 2001 (66 FR 32180). (See section V.E. of the preamble and section III.A.5 of this Addendum for a fuller discussion of the provisions of section 301(b) of Public Law 106–554.) In accordance with section 547 of Public Law 106–554, the special payment increases provided by Public Law 106–554 effective between

April and October 2001 do not apply for discharges occurring after FY 2001 and are not taken into account in determining the payment rates in subsequent years. Thus, the adjustments and rates published in the August 1, 2000 final rule were used in determining the FY 2002 capital rates. As a result of the changes to the factors used to establish the Federal rate in this addendum, the FY 2002 Federal rate is $390.74.

In the discussion that follows, we explain the factors that were used to determine the FY 2002 Federal rate. In particular, we explain why the FY 2002 Federal rate has increased 2.28 percent compared to the FY 2001 Federal rate (published in the August 1, 2000 final rule (65 FR 47122)). We also estimate aggregate capital payments will increase by 4.27 percent during this same period. This increase is primarily due to the increase in the number of hospital admissions and the increase in case-mix. This increase in capital payments is slightly less than last year (5.48 percent) because with the end of the transition period the remaining hold harmless hospitals receiving ''cost-based'' payments will begin being paid based on 100 percent of the Federal rate.

Total payments to hospitals under the prospective payment system are relatively unaffected by changes in the capital prospective payments. Since capital payments constitute about 10 percent of hospital payments, a 1 percent change in the capital Federal rate yields only about 0.1 percent change in actual payments to hospitals. Aggregate payments under the capital prospective payment system are estimated to increase in FY 2002 compared to FY 2001.

1. Standard Federal Rate Update

Under § 412.308(c)(1), the standard Federal rate is updated on the basis of an analytical framework that takes into account changes in a capital input price index and other factors. The update framework consists of a capital input price index (CIPI) and several policy adjustment factors. Specifically, we have adjusted the projected CIPI rate of increase as appropriate each year for case-mix index-related changes, for intensity, and for errors in previous CIPI forecasts. The proposed rule reflected an update factor for FY 2002 under that framework of 1.1 percent, based on data available at that time. Under the update framework, the final update factor for FY 2002 is 1.3 percent. This update factor is based on a projected 0.7 percent increase in the CIPI, a 0.3 percent adjustment for intensity, a 0.0 percent adjustment for case-mix, a 0.0 percent adjustment for the FY 2000 DRG reclassification and recalibration, and a forecast error correction of 0.3 percent. We explain the basis for the FY 2002 CIPI projection in section II.C. of this Addendum. Below we describe the policy adjustments that have been applied.

The case-mix index is the measure of the average DRG weight for cases paid under the prospective payment system. Because the DRG weight determines the prospective payment for each case, any percentage increase in the case-mix index corresponds to an equal percentage increase in hospital payments.

The case-mix index can change for any of several reasons:

- The average resource use of Medicare patients changes (''real'' case-mix change);
- Changes in hospital coding of patient records result in higher weight DRG assignments (''coding effects''); and
- The annual DRG reclassification and recalibration changes may not be budget neutral (''reclassification effect'').

We define real case-mix change as actual changes in the mix (and resource requirements) of Medicare patients as opposed to changes in coding behavior that result in assignment of cases to higher weighted DRGs but do not reflect higher resource requirements. In the update framework for the prospective payment system for operating costs, we adjust the update upwards to allow for real case-mix change, but remove the effects of coding changes on the case-mix index. We also remove the effect on total payments of prior changes to the DRG classifications and relative weights, in order to retain budget neutrality for all case-mix index-related changes other than patient severity. (For example, we adjusted for the effects of the FY 2000 DRG reclassification and recalibration as part of our FY 2002 update recommendation.) We have adopted this case-mix index adjustment in the capital update framework as well.

For FY 2002, we are projecting a 1.0 percent increase in the case-mix index. We estimate that real case-mix increase will equal 1.0 percent in FY 2002. Therefore, the net adjustment for case-mix change in FY 2002 is 0.0 percentage points.

We estimate that FY 2000 DRG reclassification and recalibration will result in a 0.0 percent change in the case-mix when compared with the case-mix index that would have resulted if we had not made the reclassification and recalibration changes to the DRGs. Therefore, we are making a 0.0 percent adjustment for DRG reclassification and recalibration in the update recommendation for FY 2002.

The capital update framework contains an adjustment for forecast error. The input price index forecast is based on historical trends and relationships ascertainable at the time the update factor is established for the upcoming year. In any given year, there may be unanticipated price fluctuations that may result in differences between the actual increase in prices and the forecast used in calculating the update factors. In setting a prospective payment rate under the framework, we make an adjustment for forecast error only if our estimate of the change in the capital input price index for any year is off by 0.25 percentage points or more. There is a 2-year lag between the forecast and the measurement of the forecast error. A forecast error of 0.3 percentage points was calculated for the FY 2000 update. That is, current historical data indicate that the forecasted FY 2000 CIPI used in calculating the FY 2000 update factor (0.6 percent) understatethe actual realized price increases (0.9 percent) by 0.3 percentage points. This under-prediction was due to prices from municipal bond yields declining slower than expected. Therefore, we are making a 0.0 3 percent adjustment for forecast error in the update for FY 2002.

Under the capital prospective payment system framework, we also make an adjustment for changes in intensity. We calculate this adjustment using the same methodology and data as in the framework for the operating prospective payment system. The intensity factor for the operating update framework reflects how hospital services are utilized to produce the final product, that is, the discharge. This component accounts for changes in the use of quality-enhancing services, changes in within-DRG severity, and expected modification of practice patterns to remove cost-ineffective services.

We calculate case-mix constant intensity as the change in total charges per admission, adjusted for price level changes (the CPI for hospital and related services), and changes in real case-mix. The use of total charges in the calculation of the proposed intensity factor makes it a total intensity factor, that is, charges for capital services are already built into the calculation of the factor. Therefore, we have incorporated the intensity adjustment from the operating update framework into the capital update framework. Without reliable estimates of the proportions of the overall annual intensity increases that are due, respectively, to ineffective practice patterns and to the combination

of quality-enhancing new technologies and within-DRG complexity, we assume, as in the revised operating update framework, that one-half of the annual increase is due to each of these factors. The capital update framework thus provides an add-on to the input price index rate of increase of one-half of the estimated annual increase in intensity to allow for within-DRG severity increases and the adoption of quality-enhancing technology.

For FY 2002, we have developed a Medicare-specific intensity measure based on a 5-year average, using FY 1996 through 2000 data. In determining case-mix constant intensity, we found that observed case-mix increase was 1.6 percent in FY 1996, 0.3 percent in FY 1997, −0.4 percent in FY 1998, and −0.3 in FY 1999, and −0.7 percent in FY 2000. Since we found an increase in case-mix of 1.6 for FY 1996, which was outside of the range of 1.0 to 1.4 percent, we estimate that real case-mix increase was 1.0 to 1.4 percent for that year. The estimate of 1.0 to 1.4 percent is supported by past studies of case-mix change by the RAND Corporation. The most recent study was ''Has DRG Creep Crept Up? Decomposing the Case Mix Index Change Between 1987 and 1988'' by G. M. Carter, J. P. Newhouse, and D. A. Relles, R–4098–HCFA/ProPAC (1991). The study suggested that real case-mix change was not dependent on total change, but was usually a fairly steady 1.0 to 1.4 percent per year. We use 1.4 percent as the upper bound because the RAND study did not take into account that hospitals may have induced doctors to document medical records more completely in order to improve payment. Following that study, we consider up to 1.4 percent of observed case-mix change as real for FY 1996 through FY 2000. Based on this analysis, we believe that all of the observed case-mix increase for FY 1997, FY 1998, and FY 1999, and FY 2000 is real. The increases for FY 1996 was in excess of our estimate of real case-mix increase.

We calculate case-mix constant intensity as the change in total charges per admission, adjusted for price level changes (the CPI for hospital and related services), and changes in real case-mix. Based upon an upper limit of 1.0 percent real case-mix increase, we estimate that case-mix constant intensity increased by an average 0.3 percent during FYs 1996 through 2000, for a cumulative increase of 1.4 percent, given estimates of real case-mix of −1.0 percent for FY 1996, 0.3 percent for FY 1997, −0.4 for FY 1998, and −0.3 for FY 1999, and −0.7 percent for FY 2000. Based upon an upper limit of 1.4 percent real case-mix increase, we estimate that case-mix constant intensity declined increase by an average 0.2 percent during FYs 1996 through 2000, for a cumulative increase of 1.2 percent, given that real case-mix increase was 1.4 percent for FY 1996, 0.3 percent for FY 1997, −0.4 for FY 1998, −0.3 for FY 1999, and −0.7 percent for FY 2000. Since we estimate that intensity has increased during that period, we are recommending a 0.3 percent intensity adjustment for FY 2002.

2. Outlier Payment Adjustment Factor

Section 412.312(c) establishes a unified outlier methodology for inpatient operating and inpatient capital-related costs. A single set of thresholds is used to identify outlier cases for both inpatient operating and inpatient capital-related payments. Section 412.308(c)(2) provides that the standard Federal rate for inpatient capital-related costs be reduced by an adjustment factor equal to the estimated proportion of capital-related outlier payments to total inpatient capital-related prospective payment system payments. The outlier thresholds are set so that operating outlier payments are projected to be 5.1 percent of total operating DRG payments.

In the August 1, 2000 final rule, we estimated that outlier payments for capital in FY 2001 would equal 5.91 percent of inpatient capital-related payments based on the Federal rate (65 FR 47121). Accordingly, we applied an outlier adjustment factor of 0.9409 to the Federal rate. Based on the thresholds as set forth in section II.A.4.c. of this Addendum, we estimate that outlier payments for capital will equal 5.76 percent of inpatient capital-related payments based on the Federal rate in FY 2002. Therefore, we are establishing an outlier adjustment factor of 0.9424 to the Federal rate. Thus, the projected percentage of capital outlier payments to total capital standard payments for FY 2002 is lower than the percentage for FY 2001.

The outlier reduction factors are not built permanently into the rates; that is, they are not applied cumulatively in determining the Federal rate. As explained previously, in accordance with section 547 of Public Law 106–554, the FY 2002 rates are based on the FY 2001 adjustments and rates published in the August 1, 2000 final rule (65 FR 47122). Therefore, the net change in the outlier adjustment to the Federal rate for FY 2002 is 1.0016 (0.9424/0.9409). The outlier adjustment increases the FY 2002 Federal rate by 0.16 percent compared with the FY 2001 outlier adjustment.

3. Budget Neutrality Adjustment Factor for Changes in DRG Classifications and Weights and the Geographic Adjustment Factor

Section 412.308(c)(4)(ii) requires that the Federal rate be adjusted so that aggregate payments for the fiscal year based on the Federal rate after any changes resulting from the annual DRG reclassification and recalibration and changes in the geographic adjustment factor (GAF) are projected to equal aggregate payments that would have been made on the basis of the Federal rate without such changes. We use the actuarial model, described in Appendix B of this final rule, to estimate the aggregate payments that would have been made on the basis of the Federal rate without changes in the DRG classifications and weights and in the GAF. We also use the model to estimate aggregate payments that would be made on the basis of the Federal rate as a result of those changes. We then use these figures to compute the adjustment required to maintain budget neutrality for changes in DRG weights and in the GAF.

For FY 2001, we calculated a GAF/DRG budget neutrality factor of 0.9979. In the proposed rule for FY 2002, we proposed a GAF/DRG budget neutrality factor of 0.9913. In this final rule, based on calculations using updated data, we are applying a factor of 0.9934. The GAF/DRG budget neutrality factors are built permanently into the rates; that is, they are applied cumulatively in determining the Federal rate. This follows from the requirement that estimated aggregate payments each year be no more or less than they would have been in the absence of the annual DRG reclassification and recalibration and changes in the GAF. As explained previously, in accordance with section 547 of Public Law 106–554, the FY 2002 adjustments and rates are based on the FY 2001 adjustment and rates published in the August 1, 2000 final rule (65 FR 47122). The incremental change in the adjustment from FY 2001 to FY 2002 is 0.9934. The cumulative change in the rate due to this adjustment is 0.9927 (the product of the incremental factors for FY 1993, FY 1994, FY 1995, FY 1996, FY 1997, FY 1998, FY 1999, FY 2000, FY 2001 and the incremental factor for FY 2002:0.9980 ×1.0053 ×0.9998 ×0.9994 ×0.9987 ×0.9989 ×1.0028 ×0.9985 ×0.9979 ×0.9934 =0.9927).

This factor accounts for DRG reclassifications and recalibration and for changes in the GAF. It also

incorporates the effects on the GAF of FY 2002 geographic reclassification decisions made by the MGCRB compared to FY 2001 decisions. However, it does not account for changes in payments due to changes in the DSH and IME adjustment factors or in the large urban add-on.

4. Exceptions Payment Adjustment Factor

Section 412.308(c)(3) requires that the standard Federal rate for inpatient capital-related costs be reduced by an adjustment factor equal to the estimated proportion of additional payments for exceptions under § 412.348 relative to total capital payments payments under the hospital-specific rate and Federal rate. We use the model originally developed for determining the budget neutrality adjustment factor to determine the regular exceptions payment adjustment factor. We describe that model in Appendix B to this final rule. An adjustment for regular exceptions is necessary for determining the FY 2002 rates because we will continue to pay regular exceptions for cost reporting periods beginning before October 1, 2001 but ending in FY 2002, in accordance with § 412.312(c)(3). In FY 2003 and later, no payments will be made under the regular exceptions provision, and then we will only compute a budget neutrality adjustment under § 412.348(d) for special exceptions. We describe the methodology to determine the special exceptions adjustment in section V.D. of this final rule. For FY 2002, the exceptions adjustment is a combination of the adjustment that would be made under the regular exceptions provision and under the special exceptions provision under § 412.348(g).

For FY 2001, we estimated that exceptions payments would equal 2.15 percent of aggregate payments based on the Federal rate. Therefore, we applied an exceptions reduction factor of 0.9785 (1—;0.0215) in determining the Federal rate. In the May 4, 2001 proposed rule, we estimated that regular exceptions payments for FY 2002 would equal 0.63 percent of aggregate payments based on the Federal rate, we estimated that special exceptions payments for FY 2002 would equal 0.12 percent of aggregate payments based on the Federal rate. Therefore, we estimated that total exceptions payments for FY 2002 would equal 0.75 percent (0.63 + 0.12 = 0.75) of aggregate payments based on the Federal rate, and we proposed an exceptions payment reduction factor of 0.9925 (1—;0.0075) to the Federal rate for FY 2002. The proposed exceptions reduction factor for FY 2002 was 1.43 percent higher than the factor for FY 2001 published in the August 1, 2000 final rule.

For this final rule, based on updated data, we estimate that regular exceptions payments for FY 2002 will equal 0.59 percent of aggregate payments based on the Federal rate, and we estimate that special exceptions payments for FY 2002 will equal 0.12 percent of aggregate payments based on the Federal rate. We estimate that total exceptions payments for FY 2002 will be 0.71 percent (0.59 + 0.12 = 0.71). Thus, the FY 2002 exceptions payment reduction factor is 0.9929 (1—0.0071). The exceptions reduction factor for FY 2002 is 1.47 percent higher than the factor for FY 2001 published in the August 1, 2000 final rule. This increase is primarily due to the expiration of the regular exceptions provision and the narrowly defined nature of the special exceptions policy.

The exceptions reduction factors are not built permanently into the rates; that is, the factors are not applied cumulatively in determining the Federal rate. As explained previously, in accordance with section 547 of Public Law 106–554, the FY 2002 adjustments and rates are based on the FY 2001 adjustments and rates published in the August 1, 2000 final rule (65 FR 47122). Therefore, the net adjustment to the FY 2002 Federal rate is 0.9929/0.9785, or 1.0147.

5. Standard Capital Federal Rate for FY 2002

For FY 2001, the capital Federal rate was $382.03 for discharges occurring between October 1, 2000 and April 1, 2001. As a result of implementing section 301(b) of Public Law 106–554, for discharges occurring from April to October 2001, the capital Federal rate was $380.85. However, as explained previously, in accordance with section 547 of Public Law 106–554, the FY 2002 adjustments and rates are based on the FY 2001 adjustments and rates published in the August 1, 2000 final rule (65 FR 47122). As a result of changes we are making to the factors used to establish the Federal rate, in this final rule we are establishing the capital Federal rate for FY 2002 of $390.74. The Federal rate for FY 2002 was calculated as follows:

- The FY 2002 update factor is 1.0130; that is, the update is 1.30 percent.
- The FY 2002 budget neutrality adjustment factor that is applied to the standard Federal payment rate for changes in the DRG relative weights and in the GAF is 0.9934.
- The FY 2002 outlier adjustment factor is 0.94214.
- The FY 2002 (regular and special) exceptions payments adjustment factor is 0.9929.

Since the Federal rate has already been adjusted for differences in case-mix, wages, cost-of-living, indirect medical education costs, and payments to hospitals serving a disproportionate share of low-income patients, we have made no additional adjustments in the standard Federal rate for these factors, other than the budget neutrality factor for changes in the DRG relative weights and the GAF.

We are providing a chart that shows how each of the factors and adjustments for FY 2002 affected the computation of the FY 2002 Federal rate in comparison to the FY 2001 Federal rate. The FY 2002 update factor has the effect of increasing the Federal rate by 1.30 percent compared to the FY 2001 rate published in the August 1, 2000 final rule, while the geographic and DRG budget neutrality factor has the effect of decreasing the Federal rate by 0.66 percent. The FY 2002 outlier adjustment factor has the effect of increasing the Federal rate by 0.16 percent compared to the FY 2001 rate published in the August 1, 2000 final rule. The FY 2002 (regular and special) exceptions reduction factor has the effect of increasing the Federal rate by 1.47 percent compared to the exceptions reduction for FY 2001. The combined effect of all the proposed changes is to increase the Federal rate by 2.28 percent compared to the Federal rate for FY 2001.

COMPARISON OF FACTORS AND ADJUSTMENTS: FY 2001 FEDERAL RATE AND FY 2002 FEDERAL RATE

| | FY 2001 | FY 2002 | Change | Percent change |
|---|---|---|---|---|
| Update factor[1] | 1.0090 | 1.0130 | 1.0130 | 1.30 |
| GAF/DRG Adjustment Factor[1] | 0.9979 | 0.9934 | 0.9934 | −0.66 |
| Outlier Adjustment Factor[2] | 0.9409 | 0.9424 | 1.0016 | 0.16 |

COMPARISON OF FACTORS AND ADJUSTMENTS: FY 2001 FEDERAL RATE AND FY 2002 FEDERAL RATE—Continued

| | FY 2001 | FY 2002 | Change | Percent change |
|---|---|---|---|---|
| Exceptions Adjustment Factor[2] | 0.9785 | 0.9929 | 1.0147 | 1.47 |
| Federal Rate | $382.03 | $390.74 | 1.0228 | 2.28 |

[1] The update factor and the GAF/DRG budget neutrality factors are built permanently into the rates. Thus, for example, the incremental change from FY 2000 to FY 2001 resulting from the application of the 0.9934 GAF/DRG budget neutrality factor for FY 2001 is 0.9934.

[2] The outlier reduction factor and the exceptions reduction factor are not built permanently into the rates; that is, these factors are not applied cumulatively in determining the rates. Thus, for example, the net change resulting from the application of the FY 2001 outlier reduction factor is 0.9424/0.9409, or 1.0016.

As stated previously in this section, the FY 2002 Federal rate has increased 2.28 percent compared to the FY 2001 capital Federal rate as a result of the FY 2002 factors and adjustments applied to the capital Federal rate. Specifically, the capital update factor increased the capital Federal rate 1.30 percent over FY 2001. The exceptions reduction factor increased 1.47 percent from 0.9875 to 0.9929 for FY 2002, which results in an increase to the capital Federal rate for FY 2002. Also, the outlier adjustment factor increased 0.16 percent from 0.9409 for FY 2001 to 0.9424 for FY 2002, which results in an increase to the capital Federal rate in FY 2002 compared to FY 2001. The GAF/DRG adjustment factor decreased 0.66 percent from 0.9979 for FY 2001 to 0.9934 for FY 2002, which results in a decrease the capital Federal rate for FY 2002 compared to FY 2001. The effect of all these changes is a 2.28 percent increase in the FY 2002 capital Federal rate compared to FY 2001.

We are also providing a chart that shows how the final FY 2002 capital Federal rate differs from the proposed FY 2002 capital Federal rate.

COMPARISON OF FACTORS AND ADJUSTMENTS: FY 2002 PROPOSED FEDERAL RATE AND FY 2002 FINAL FEDERAL RATE

| | Proposed FY 2002 | Final FY 2002 | Change | Percent change |
|---|---|---|---|---|
| Update factor | 1.0110 | 1.0130 | 1.0020 | 0.20 |
| GAF/DRG Adjustment Factor | 0.9913 | 0.9934 | 1.0021 | 0.21 |
| Outlier Adjustment Factor | 0.9426 | 0.9424 | 0.9998 | −0.02 |
| Exceptions Adjustment Factor | 0.9925 | 0.9929 | 1.0004 | 0.04 |
| Federal Rate | $389.09 | $390.74 | 1.0042 | 0.42 |

6. Special Rate for Puerto Rico Hospitals

As explained at the beginning of section II.D. of this Addendum, hospitals in Puerto Rico are paid based on 50 percent of the Puerto Rico rate and 50 percent of the Federal rate. The Puerto Rico rate is derived from the costs of Puerto Rico hospitals only, while the Federal rate is derived from the costs of all acute care hospitals participating in the prospective payment system (including Puerto Rico). To adjust hospitals' capital payments for geographic variations in capital costs, we apply a GAF to both portions of the blended rate. The GAF is calculated using the operating prospective payment system wage index and varies, depending on the MSA or rural area in which the hospital is located. We use the Puerto Rico wage index to determine the GAF for the Puerto Rico part of the capital-blended rate and the national wage index to determine the GAF for the national part of the blended rate.

Because we implemented a separate GAF for Puerto Rico in FY 1998, we also apply separate budget neutrality adjustments for the national GAF and for the Puerto Rico GAF. However, we apply the same budget neutrality factor for DRG reclassifications and recalibration nationally and for Puerto Rico. The Puerto Rico GAF budget neutrality factor is 0.9899, while the DRG adjustment is 0.9967, for a combined cumulative adjustment of 0.9866.

In computing the payment for a particular Puerto Rico hospital, the Puerto Rico portion of the rate (50 percent) is multiplied by the Puerto Rico-specific GAF for the MSA in which the hospital is located, and the national portion of the rate (50 percent) is multiplied by the national GAF for the MSA in which the hospital is located (which is computed from national data for all hospitals in the United States and Puerto Rico). In FY 1998, we implemented a 17.78 percent reduction to the Puerto Rico rate as a result of Public Law 105–33.

For FY 2001, before application of the GAF, the special rate for Puerto Rico hospitals was $185.06. As explained previously, in accordance with section 547 of Public Law 106–554, the FY 2002 adjustments and rates are based on the FY 2001 rates published in the August 1, 2000 final rule. With the changes we proposed to the factors used to determine the rate, the proposed FY 2002 special rate for Puerto Rico was $188.67. In this final rule, based on the final factors, the FY 2002 capital rate for Puerto Rico is $187.73.

7. Changes in the Capital Prospective Payment System Rates for FY 2001

In the June 13, 2001 interim final rule with comment period, we implemented section 301(b) of Public Law 106–554 (66 FR 32180).

Section 301(b) of Public Law 106–554 provided a special rule to implement the full market basket update to inpatient hospital operating prospective payment rates for FY 2001. Under this special rule, for discharges occurring on or after October 1, 2000 and before April 1, 2001, the update factor for inpatient prospective payment system hospitals (other than SCHs) is equal to the market basket percentage increase minus 1.1 percentage points. For discharges occurring on or after April 1, 2001 and before October 1, 2001, the update factor for the payment rates for inpatient prospective payment system hospitals (other than SCHs) is equal to the market basket percentage increase plus 1.1 percentage points. Section 547 of Public Law 106–554 makes this special rule applicable solely to payments in FY 2001, and the payment increases resulting for FY 2001 are not taken into

account in developing payments for future fiscal years.

As directed by the special rule in section 301(b) of Public Law 106–554, any discharges occurring on or after October 1, 2000, and before April 1, 2001, will be paid in accordance with the standardized amounts set forth in the FY 2001 hospital inpatient prospective payment system final rule published in the August 1, 2000 **Federal Register** (65 FR 47126). These rates were calculated using the market basket percentage increase of 3.4 percent minus 1.1 percentage points, for a 2.3 percent increase (see 65 FR 47112), as directed by section 1886(b)(3)(B)(i) of the Act, prior to the passage of Public Law 106–554.

As stated in the June 13, 2001 interim final rule with comment period, to implement the special rule under section 301(b) of Public Law 106–554, we recomputed the standardized amounts effective for discharges occurring on or after April 1, 2001. That is, we replaced the update factor of 2.3 percent applied to the standardized amounts in the August 1, 2000 final rule, with the update factor of 4.5 percent (the market basket percentage increase plus 1.1 percentage point, or 3.4 plus 1.1 percentage points).

As published in the June 13, 2001 interim final rule with comment period (66 FR 32180), the revised capital Federal rate for discharges occurring on or after April 1 2001, and before October 1, 2001, are shown in the table below.

FINAL FY 2001 CAPITAL RATES

[Effective April 1, 2001 to October 1, 2001]

| | |
|---|---|
| National Rate | $380.85 |
| Puerto Rico Rate | $184.61 |

Section 1886(d)(3)(B) of the Act directs the Secretary to adjust the inpatient operating national standardized amounts to account for the estimated proportion of operating DRG payments made to payments in outlier cases. Accordingly, as a result of this change to the update to the operating standardized amounts for discharges occurring on or after April 1, 2001, and before October 1, 2001, we revised the fixed-loss outlier thresholds. The regulations at § 412.312(c) establish a unified outlier methodology for inpatient operating and inpatient capital-related costs, which utilizes a single set of thresholds to identify outlier cases for both inpatient operating and inpatient capital prospective payment system payments. Because operating DRG payments increased as a result of section 301 of Public Law 106–554, we decreased the fixed-loss threshold. The decrease in the outlier threshold also results in an increase in the estimated outlier payments for capital from 5.91 percent to 6.21 percent. Thus, the capital national outlier adjustment factor was revised from 0.9409 (as specified in the August 1, 2000 final rule (65 FR 47121)) to 0.9379 (as specified in the June 13, 2001 interim final rule with comment period).

As stated earlier, the basic methodology for determining the capital Federal rate is set forth in §§ 412.308 through 412.352. Although the operating update to the standardized amounts was affected by section 301 of Public Law 106–554, the standard capital Federal rate update remained unchanged (0.9 percent). The exceptions adjustment factor was determined based on an estimate of the ratio of exception payments to total capital payments. As a result of the fixed-cost outlier threshold, which affects total capital payments, in order to maintain budget neutrality for exception payments, we revised the exception adjustment factor from 0.9785 to 0.9787. The national GAF/DRG budget neutrality factor was also revised from 0.9979 to 0.9978. The Puerto Rico GAF/DRG budget neutrality factor remained unchanged (1.0037). Accordingly, as a result of the revisions to the capital outlier reduction factor and the capital exceptions adjustment factor, for discharges occurring on or after April 1, 2001, and before October 1, 2001, the national capital Federal rate was revised from $382.03 (65 FR 47127) to $380.85 and the Puerto Rico capital rate was revised from $185.06 (65 FR 47127) to $184.61.

In accordance with § 412.328(e), the hospital-specific rate is determined using the update factor and the exceptions adjustment factor. As a result of revising the exceptions adjustment factor to account for the change to the fixed-loss outlier threshold resulting from the special payment rule for FY 2001 provided for under section 301(b) of Public Law 106–554, for discharges occurring on or after April 1, 2001, and before October 1, 2001, the cumulative net adjustment to the hospital-specific rate was revised from 1.0147 (65 FR 47124) to 1.0145. For discharges occurring on or after April 1, 2001, and before October 1, 2001, the hospital-specific rate was determined by multiplying the FY 2000 hospital-specific rate by the cumulative net adjustment of 1.0145.

B. Calculation of Inpatient Capital-Related Prospective Payments for FY 2002

With the end of the capital prospective payment system transition period, all hospitals (except ''new'' hospitals under § 412.324(b)) will be paid based on 100 percent of the Federal rate in FY 2002. The applicable Federal rate was determined by making adjustments as follows:

- For outliers, by dividing the standard Federal rate by the outlier reduction factor for that fiscal year; and
- For the payment adjustments applicable to the hospital, by multiplying the hospital's GAF, disproportionate share adjustment factor, and IME adjustment factor, when appropriate.

For purposes of calculating payments for each discharge during FY 2002, the standard Federal rate is adjusted as follows: (Standard Federal Rate) × (DRG weight) × (GAF) × (Large Urban Add-on, if applicable) × (COLA adjustment for hospitals located in Alaska and Hawaii) × (1 + Disproportionate Share Adjustment Factor + IME Adjustment Factor, if applicable). The result is the adjusted Federal rate.

Hospitals also may receive outlier payments for those cases that qualifyFY under the thresholds established for each fiscal year. Section 412.312(c) provides for a single set of thresholds to identify outlier cases for both inpatient operating and inpatient capital-related payments. The outlier thresholds for FY 2002 are in section II.A.4.c. of this Addendum. For FY 2002, a case qualifies as a cost outlier if the cost for the case plus the IME and DSH payments is greater than the prospective payment rate for the DRG plus $21,025.

During the capital prospective payment system transition period, a hospital also may receive an additional payment under the regular exceptions process through its cost reporting period beginning before October 1, 2001, but ending in FY 2002 if its total inpatient capital-related payments are less than a minimum percentage of its allowable Medicare inpatient capital-related costs. The minimum payment level is established by class of hospital under § 412.348(c). Under § 412.348(d), the amount of a regular exceptions payment is determined by comparing the cumulative payments made to the hospital under the capital prospective payment system to the cumulative minimum payment levels applicable to the hospital for each cost reporting period subject to that system. Any amount by which the hospital's cumulative payments exceed its

cumulative minimum payment is deducted from the additional payment that would otherwise be payable for a cost reporting period.

An eligible hospital may qualify for a special exception payment under § 412.348(g) for up through the 10th year beyond the end of the capital transition period if it meets (1) a project need requirement described at § 412.348(g)(2), which in the case of certain urban hospitals includes an excess capacity test; and (2) a project size requirement as described at § 412.348(g)(5). Eligible hospitals include sole community hospitals, urban hospitals with at least 100 beds that have a DSH patient percentage of at least 20.2 percent, and hospitals that have a combined Medicare and Medicaid inpatient utilization of at least 70 percent. Under § 412.348(g)(8), the amount of a special exceptions payment is determined by comparing the cumulative payments made to the hospital under the capital prospective payment system to the cumulative minimum payment level. This amount is offset by (1) any amount by which a hospital's cumulative capital payments exceed its cumulative minimum payment levels applicable under the regular exceptions process for cost reporting periods beginning during which the hospital has been subject to the capital prospective payment system; and (2) any amount by which a hospital's current year operating and capital payments (excluding 75 percent of operating DSH payments) exceed its operating and capital costs. The minimum payment level is 70 percent for all eligible hospitals under § 412.348(g).

New hospitals, as defined under § 412.300, are exempted from the capital prospective payment system for their first 2 years of operation and are paid 85 percent of their reasonable costs during that period. A new hospital's old capital costs are its allowable costs for capital assets that were put in use for patient care on or before the later of December 31, 1990, or the last day of the hospital's base year cost reporting period, and are subject to the rules pertaining to old capital and obligated capital as of the applicable date. Effective with the third year of operation through the remainder of the transition period, we will pay the hospital under either the fully prospective methodology, using the appropriate transition blend in that Federal fiscal year, or the hold-harmless methodology. If the hold-harmless methodology is applicable, the hold-harmless payment for assets in use during the base period would extend for 8 years, even if the hold-harmless payments extend beyond the normal transition period.

*C. Capital Input Price Index*

1. Background

Like the operating input price index, the capital input price index (CIPI) is a fixed-weight price index that measures the price changes associated with costs during a given year. The CIPI differs from the operating input price index in one important aspect—the CIPI reflects the vintage nature of capital, which is the acquisition and use of capital over time. Capital expenses in any given year are determined by the stock of capital in that year (that is, capital that remains on hand from all current and prior capital acquisitions). An index measuring capital price changes needs to reflect this vintage nature of capital. Therefore, the CIPI was developed to capture the vintage nature of capital by using a weighted-average of past capital purchase prices up to and including the current year.

Using Medicare cost reports, American Hospital Association (AHA) data, and Securities Data Company data, a vintage-weighted price index was developed to measure price increases associated with capital expenses. We periodically update the base year for the operating and capital input prices to reflect the changing composition of inputs for operating and capital expenses. Currently, the CIPI is based to FY 1992 and was last rebased in 1997. The most recent discussion of the cost category weights in the CIPI was in the final rule with comment period for FY 1998 published on August 29, 1997 (62 FR 46050).

2. Forecast of the CIPI for Federal Fiscal Year 2002

We are forecasting the CIPI to increase 0.7 percent for FY 2002. This reflects a projected 1.4 percent increase in vintage-weighted depreciation prices (building and fixed equipment, and movable equipment) and a 3.3 percent increase in other capital expense prices in FY 2002, partially offset by a 2.0 percent decline in vintage-weighted interest rates in FY 2002. The weighted average of these three factors produces the 0.7 percent increase for the CIPI as a whole.

## IV. Changes to Payment Rates for Excluded Hospitals and Hospital Units: Rate-of-Increase Percentages

The inpatient operating costs of hospitals and hospital units excluded from the prospective payment system are subject to rate-of-increase limits established under the authority of section 1886(b) of the Act, which is implemented in regulations at § 413.40. Under these limits, a hospital-specific target amount (expressed in terms of the inpatient operating cost per discharge) is set for each hospital, based on the hospital's own historical cost experience trended forward by the applicable rate-of-increase percentages (update factors). In the case of a psychiatric hospital or hospital unit, a rehabilitation hospital or hospital unit, or a long-term care hospital, the target amount may not exceed the updated figure for the 75th percentile of target amounts adjusted to take into account differences between average wage-related costs in the area of the hospital and the national average of such costs within the same class of hospital for hospitals and units in the same class (psychiatric, rehabilitation, and long-term care) for cost reporting periods ending during FY 1996. The target amount is multiplied by the number of Medicare discharges in a hospital's cost reporting period, yielding the ceiling on aggregate Medicare inpatient operating costs for the cost reporting period.

Each hospital-specific target amount is adjusted annually, at the beginning of each hospital's cost reporting period, by an applicable update factor.

Section 1886(b)(3)(B) of the Act, which is implemented in regulations at § 413.40(c)(3)(vii), provides that for cost reporting periods beginning on or after October 1, 1998 and before October 1, 2002, the update factor for a hospital or unit depends on the hospital's or hospital unit's costs in relation to the ceiling for the most recent cost reporting period for which information is available. For hospitals with costs exceeding the ceiling by 10 percent or more, the update factor is the market basket increase. For hospitals with costs exceeding the ceiling by less than 10 percent, the update factor is the market basket minus .25 percent for each percentage point by which costs are less than 10 percent over the ceiling. For hospitals with costs equal to or less than the ceiling but greater than 66.7 percent of the ceiling, the update factor is the greater of 0 percent or the market basket minus 2.5 percent. For hospitals with costs that do not exceed 66.7 percent of the ceiling, the update factor is 0.

The most recent forecast of the market basket increase for FY 2002 for hospitals and hospital units excluded from the prospective payment system is 3.3 percent. Therefore, the update to a hospital's target amount for its cost reporting period beginning in FY 2002 would be between 0.8 and 3.3 percent, or 0 percent, depending on the

hospital's or unit's costs in relation to its rate-of-increase limit.

In addition, § 413.40(c)(4)(iii) requires that for cost reporting periods beginning on or after October 1, 1998, and before October 1, 2002, the target amount for each psychiatric hospital or hospital unit, rehabilitation hospital or hospital unit, and long-term care hospital cannot exceed a cap on the target amounts for hospitals in the same class.

Section 1886(b)(3)(H) of the Act, as amended by section 121 of Public Law 106–113, provides for an appropriate wage adjustment to the caps on the target amounts for psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals, effective for cost reporting periods beginning on or after October 1, 1999, through September 30, 2002. On August 1, 2000, we published an interim final rule with comment period that implemented this provision for cost reporting periods beginning on or after October 1, 1999 and before October 1, 2000 (65 FR 47026) and a final rule that implemented the provision for cost reporting periods beginning on or after October 1, 2000, and before October 1, 2001 (65 FR 47054). This final rule addresses the wage adjustment to the caps for cost reporting periods beginning on or after October 1, 2001.

As discussed in section VI. of the preamble of this final rule, the cap on the target amount per discharge is determined by adding the hospital's nonlabor-related portion of the national 75th percentile cap to its wage-adjusted, labor-related portion of the national 75th percentile cap (the labor-related portion of costs equals 0.71553 and the nonlabor-related portion of costs equals 0.28447). A hospital's wage-adjusted, labor-related portion of the target amount is calculated by multiplying the labor-related portion of the national 75th percentile cap for the hospital's class by the wage index under the hospital inpatient prospective payment system (see § 412.63), without taking into account reclassifications under sections 1886(d)(8)(B) and (d)(10) of the Act.

As discussed in section VI. of the preamble of this final rule, we have made an adjustment to the caps on target amounts for new and existing excluded hospitals and units. In calculating the wage-adjusted caps on target amounts for new and existing excluded and units for FY 2001, we inadvertently made an error. In wage neutralizing FY 1996 target amounts, we used the FY 2000 hospital inpatient prospective payment system wage index published in Tables 4A and 4B of the July 30, 1999 final rule (64 FR 41585 through 41593), which is based on wage data after taking into account geographic reclassifications under section 1886(d)(8) of the Act. We have used pre-reclassified wage data in our recalculation of the caps for FY 2002. We recalculated both the limits for new excluded hospitals and units and the caps for existing excluded hospitals and units, using the same wage index used under the prospective payment system for skilled nursing facilities (SNF) as shown in Table 7 of the July 30, 1999 SNF final rule (64 FR 41690). We do not anticipate a significant impact on overall payments to these hospitals and units.

Section 307(a) of Public Law 106–554 amended section 1886(b)(3) of the Act to provide for a 2-percent increase to the wage-adjusted 75th percentile cap on the target amount for long-term care hospitals, effective for cost reporting periods beginning during FY 2001. This provision is applicable to long-term care hospitals that were subject to the cap for existing excluded hospitals and units, as specified in § 413.40(c).

In addition to the increase to the cap on the target amounts for long-term care hospitals, section 307(a) of Public Law 106–554 amended section 1886(b)(3)(A) of the Act to make the section applicable to all long-term care hospitals, effective for cost reporting periods beginning during FY 2001. This provision requires a revision to the determination of each long-term care hospital's FY 2001 target amount as specified in § 413.40(c)(4). For cost reporting periods beginning during FY 2001, the hospital-specific target amount otherwise determined for a long-term care hospital as specified under § 413.40(c)(4)(ii) is multiplied by 1.25 (that is, increased by 25 percent). However, the revised FY 2001 target amount for a long-term care hospital cannot exceed its wage-adjusted national cap as required by section 1886(b)(3) of the Act, as amended by section 307(a) of Public Law 106–554.

For cost reporting periods beginning in FY 2002, in the May 4, 2001 proposed rule, we included the following proposed caps:

| Class of excluded hospital or unit | Labor-related share | Nonlabor-related share |
|---|---|---|
| Psychiatric ..... | $8,404 | $ 3,341 |
| Rehabilitation .... | $15,689 | $6,237 |
| Long-Term Care | $31,399 | $12,483 |

In this final rule, using updated data, we have recalculated the proposed caps for cost reporting periods beginning in FY 2002. The final FY 2002 caps are listed below:

| Class of excluded hospital or unit | Labor-related shae | Nonlabor-related share |
|---|---|---|
| Psychiatric ..... | $8,429 | $3,351 |
| Rehabilitation .... | $15,736 | $6,256 |
| Long-Term Care | $31,490 | $12,519 |

Regulations at § 413.40(d) specify the formulas for determining bonus and relief payments for excluded hospitals and specify established criteria for an additional bonus payment for continuous improvement. Regulations at § 413.40(f)(2)(ii) specify the payment methodology for new hospitals and hospital units (psychiatric, rehabilitation, and long-term care) effective October 1, 1997.

**V. Tables**

This section contains the tables referred to throughout the preamble to this final rule and in this Addendum. For purposes of this final rule, and to avoid confusion, we have retained the designations of Tables 1 and 5 that were first used in the September 1, 1983 initial prospective payment final rule (48 FR 39844). Tables 1A, 1C, 1D, 2, 3A, 3B, 4A, 4B, 4C, 4F, 4G, 4H, 5, 6A, 6B, 6C, 6D, 6E, 6F, 6G, 6H, 7A, 7B, 8A, and 8B are presented below. The tables presented below are as follows:

Table 1A—National Adjusted Operating Standardized Amounts, Labor/Nonlabor
Table 1C—Adjusted Operating Standardized Amounts for Puerto Rico, Labor/Nonlabor
Table 1D—Capital Standard Federal Payment Rate
Table 2—Hospital Average Hourly Wage for Federal Fiscal Years 2000 (1996 Wage Data), 2001 (1997 Wage Data) and 2002 (1998 Wage Data) Wage Indexes and 3-Year Average of Hospital Average Hourly Wages
Table 3A—FY 2002 and 3-Year Average Hourly Wage for Urban Areas
Table 3B—FY 2002 and 3-Year Average Hourly Wage for Rural Areas
Table 4A—Wage Index and Capital Geographic Adjustment Factor (GAF) for Urban Areas
Table 4B—Wage Index and Capital Geographic Adjustment Factor (GAF) for Rural Areas
Table 4C—Wage Index and Capital Geographic Adjustment Factor (GAF) for Hospitals That Are Reclassified
Table 4F—Puerto Rico Wage Index and Capital Geographic –Adjustment Factor (GAF)
Table 4G—Pre-Reclassified Wage Index for Urban Areas
Table 4H—Pre-Reclassified Wage Index for Rural Areas
Table 5—List of Diagnosis Related Groups (DRGs), Relative Weighting Factors, Geometric and Arithmetic Mean Length of Stay
Table 6A—New Diagnosis Codes
Table 6B—New Procedure Codes
Table 6C—Invalid Diagnosis Codes
Table 6D—Invalid Procedure Codes
Table 6E—Revised Diagnosis Code Titles
Table 6F—Revised Procedure Code Titles
Table 6G—Additions to the CC Exclusions List
Table 6H—Deletions to the CC Exclusions List
Table 7A—Medicare Prospective Payment System Selected –Percentile Lengths of Stay FY 2000 MedPAR Update 3/01 –GROUPER V18.0
Table 7B—Medicare Prospective Payment System Selected Percentile Lengths of Stay FY 2000 MedPAR Update 3/01 GROUPER V19.0
Table 8A—Statewide Average Operating Cost-to-Charge Ratios for Urban and Rural Hospitals (Case Weighted) July 2001
Table 8B—Statewide Average Capital Cost-to-Charge Ratios (Case Weighted) July 2001

TABLE 1A.—NATIONAL ADJUSTED OPERATING STANDARDIZED AMOUNTS, LABOR/NONLABOR

| Large Urban Areas | | Other Areas | |
|---|---|---|---|
| Labor-related | Nonlabor-related | Labor-related | Nonlabor-related |
| $2,955.44 | $1,201.30 | $2,908.65 | $1,182.27 |

TABLE 1C.—ADJUSTED OPERATING STANDARDIZED AMOUNTS FOR PUERTO RICO, LABOR/NONLABOR

| | Large Urban Areas | | Other Areas | |
|---|---|---|---|---|
| | Labor | Nonlabor | Labor | Nonlabor |
| National PR | $2,929.57 | $1,190.78 | $2,929.57 | $1,190.78 |
| Puerto Rico | 1,420.07 | 571.61 | 1,397.59 | 562.56 |

TABLE 1D.—CAPITAL STANDARD FEDERAL PAYMENT RATE

| | Rate |
|---|---|
| National | $390.74 |
| Puerto Rico | 187.73 |

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 010001 | 15.8484 | 16.4088 | 17.4467 | 16.5711 |
| 010004 | 15.0194 | 17.9732 | 19.0010 | 17.1863 |
| 010005 | 16.2615 | 17.5985 | 18.6554 | 17.4986 |
| 010006 | 17.3081 | 16.7480 | 17.6115 | 17.2150 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 010007 | 14.8048 | 15.4798 | 15.6788 | 15.3288 |
| 010008 | 17.6549 | 14.7443 | 17.4728 | 16.6080 |
| 010009 | 17.5328 | 18.7731 | 18.4979 | 18.2633 |
| 010010 | 15.9090 | 16.4468 | 16.4664 | 16.2848 |
| 010011 | 20.6261 | 20.7972 | 22.4292 | 21.2601 |
| 010012 | 19.2992 | 17.7171 | 15.8686 | 17.5430 |
| 010015 | 18.3461 | 15.4510 | 19.1178 | 17.5372 |
| 010016 | 16.1311 | 17.2473 | 20.2198 | 17.8844 |
| 010018 | 18.9617 | 17.6449 | 18.9388 | 18.5180 |
| 010019 | 15.4910 | 16.3493 | 17.0856 | 16.3311 |
| 010021 | 14.6297 | 16.2919 | 15.1241 | 15.3000 |
| 010022 | 20.5050 | 18.5879 | 17.6435 | 18.8422 |
| 010023 | 16.2581 | 16.1025 | 16.3209 | 16.2283 |
| 010024 | 16.0263 | 16.2900 | 15.9034 | 16.0692 |
| 010025 | 14.5311 | 15.1356 | 15.1548 | 14.9441 |
| 010027 | 14.9278 | 11.7900 | 16.8595 | 14.1053 |
| 010029 | 16.4103 | 17.6461 | 18.3605 | 17.4403 |
| 010031 | 18.0194 | 18.7835 | 18.6402 | 18.4877 |
| 010032 | 12.6540 | 12.5995 | 15.3590 | 13.6017 |
| 010033 | 19.6797 | 20.3923 | 21.2986 | 20.4581 |
| 010034 | 14.7342 | 15.0959 | 15.3639 | 15.0606 |
| 010035 | 17.4788 | 20.1853 | 15.9439 | 17.6916 |
| 010036 | 17.2880 | 17.8140 | 17.7166 | 17.6061 |
| 010038 | 18.3309 | 18.2671 | 19.6098 | 18.7632 |
| 010039 | 18.8080 | 20.1045 | 20.3406 | 19.7778 |
| 010040 | 19.1030 | 18.9376 | 20.0983 | 19.3415 |
| 010043 | 16.2022 | 30.7489 | 18.6640 | 19.9982 |
| 010044 | 17.0229 | 22.0091 | 24.0265 | 20.8906 |
| 010045 | 15.0065 | 15.2200 | 17.0417 | 15.7248 |
| 010046 | 17.1822 | 17.3970 | 18.9737 | 17.8750 |
| 010047 | 16.3803 | 13.3521 | 15.4190 | 15.2030 |
| 010049 | 14.4823 | 14.7590 | 15.5246 | 14.9487 |
| 010050 | 15.4159 | 18.5163 | 17.9830 | 17.2796 |
| 010051 | 9.9390 | 11.9275 | 11.8108 | 11.1940 |
| 010052 | 13.8649 | 16.5486 | 18.0653 | 16.1248 |
| 010053 | 13.1778 | 14.6267 | 15.5649 | 14.5406 |
| 010054 | 17.1246 | 18.5103 | 19.4955 | 18.4846 |
| 010055 | 18.1930 | 18.9526 | 18.8590 | 18.6711 |
| 010056 | 19.0783 | 19.2175 | 19.6577 | 19.3204 |
| 010058 | 12.7809 | 16.1702 | 16.9715 | 15.1274 |
| 010059 | 18.1886 | 19.1286 | 18.8020 | 18.7124 |
| 010061 | 15.9215 | 14.9547 | 14.5003 | 15.1112 |
| 010062 | 13.5690 | 14.7732 | 12.3259 | 13.5151 |
| 010064 | 20.8966 | 20.4139 | 19.5256 | 20.2712 |
| 010065 | 15.6357 | 16.4049 | 16.8752 | 16.3279 |
| 010066 | 12.0681 | 15.4317 | 13.1559 | 13.4757 |
| 010068 | 18.7367 | 12.0525 | 18.6925 | 15.8875 |
| 010069 | 13.5684 | 13.8636 | 14.7211 | 14.0429 |
| 010072 | 14.3481 | 14.9526 | 16.2339 | 15.1957 |
| 010073 | 12.8328 | 13.8601 | 14.1273 | 13.6015 |
| 010078 | 17.7110 | 17.9202 | 18.1363 | 17.9248 |
| 010079 | 16.8701 | 16.4421 | 17.0648 | 16.7882 |
| 010080 | 13.8473 | * | * | 13.8473 |
| 010081 | 16.9823 | 18.9474 | 17.2996 | 17.7081 |
| 010083 | 16.2146 | 16.8933 | 18.0312 | 17.0916 |
| 010084 | 18.7794 | 18.4965 | 18.7769 | 18.6812 |
| 010085 | 18.8696 | 18.4744 | 19.9023 | 19.0736 |
| 010086 | 14.9255 | 16.6694 | 16.5711 | 16.0968 |
| 010087 | 18.3889 | 19.0033 | 18.0567 | 18.5192 |
| 010089 | 16.6090 | 16.8042 | 17.7800 | 17.0521 |
| 010090 | 18.1121 | 18.3866 | 18.9445 | 18.4882 |
| 010091 | 16.3620 | 13.9405 | 17.0799 | 15.6820 |
| 010092 | 16.4980 | 16.9900 | 17.8144 | 17.1322 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 010094 | 18.5603 | * | * | 18.5603 |
| 010095 | 11.8993 | 12.4525 | 12.2597 | 12.2090 |
| 010097 | 12.8955 | 13.0413 | 12.7286 | 12.8889 |
| 010098 | 14.2787 | 15.9165 | 14.0300 | 14.6833 |
| 010099 | 15.9309 | 15.9874 | 15.5619 | 15.8073 |
| 010100 | 15.4826 | 17.2011 | 17.9430 | 16.9229 |
| 010101 | 15.4173 | 15.3859 | 14.4625 | 15.0781 |
| 010102 | 12.7251 | 13.7933 | 13.8136 | 13.4259 |
| 010103 | 19.3115 | 17.9358 | 17.7242 | 18.3325 |
| 010104 | 18.0997 | 17.7126 | 16.8457 | 17.5501 |
| 010108 | 20.7914 | 17.9017 | 19.4617 | 19.3047 |
| 010109 | 14.0870 | 15.3107 | 14.6752 | 14.6907 |
| 010110 | 15.9066 | 15.6317 | 15.8283 | 15.7917 |
| 010112 | 15.1056 | 15.1401 | 16.8271 | 15.6716 |
| 010113 | 17.2440 | 16.9683 | 16.8936 | 17.0309 |
| 010114 | 17.2612 | 15.2454 | 17.0760 | 16.4722 |
| 010115 | 13.7524 | 14.6268 | 14.2261 | 14.2120 |
| 010118 | 16.6889 | 18.8477 | 17.0834 | 17.5145 |
| 010119 | 18.1707 | 18.8024 | 19.3942 | 18.9605 |
| 010120 | 17.0332 | 17.2336 | 18.2567 | 17.5146 |
| 010121 | 15.1806 | 14.6444 | 14.5262 | 14.8160 |
| 010123 | 18.1604 | 16.7344 | 19.2140 | 17.9949 |
| 010124 | 16.2666 | 16.2846 | 16.7465 | 16.4273 |
| 010125 | 14.4153 | 15.5304 | 16.0136 | 15.3557 |
| 010126 | 17.6405 | 19.5710 | 19.1065 | 18.7347 |
| 010127 | 19.6095 | 19.5190 | 18.2786 | 19.1726 |
| 010128 | 12.5747 | 14.5056 | 14.4322 | 13.6385 |
| 010129 | 14.4267 | 14.7286 | 16.1733 | 15.1385 |
| 010130 | 16.3465 | 16.6809 | 19.5573 | 17.3907 |
| 010131 | 17.9076 | 17.8260 | 20.1883 | 18.6602 |
| 010134 | 10.7817 | 18.8835 | 19.9856 | 15.8677 |
| 010137 | 15.9348 | 12.1217 | 20.5828 | 15.9236 |
| 010138 | 12.1295 | 12.8675 | 14.5254 | 13.1763 |
| 010139 | 19.9487 | 19.0001 | 20.4331 | 19.7578 |
| 010143 | 15.7144 | 16.7911 | 17.6212 | 16.7651 |
| 010144 | 17.1211 | 17.1320 | 18.2040 | 17.4771 |
| 010145 | 20.7460 | 20.8434 | 20.5895 | 20.7209 |
| 010146 | 18.8561 | 18.5198 | 19.1415 | 18.8309 |
| 010148 | 14.6443 | 12.2214 | 15.8349 | 13.9784 |
| 010149 | 17.0836 | 18.6333 | 18.0156 | 17.9216 |
| 010150 | 16.9749 | 17.8951 | 18.9359 | 17.9332 |
| 010152 | 17.3835 | 17.8306 | 18.7677 | 18.0088 |
| 010155 | 16.7028 | 9.0300 | 15.0689 | 12.5183 |
| 010158 | * | 17.3227 | 18.3957 | 17.8637 |
| 020001 | 27.9690 | 28.1747 | 28.0394 | 28.0627 |
| 020002 | 26.9145 | 24.5815 | 25.1987 | 25.5092 |
| 020004 | 26.3979 | 30.5667 | 25.4679 | 27.5927 |
| 020005 | 29.0068 | 30.2920 | 29.2378 | 29.5337 |
| 020006 | 26.7706 | 31.2404 | 28.1417 | 28.8630 |
| 020007 | 24.9555 | 27.8319 | 32.3852 | 28.0097 |
| 020008 | 30.4712 | 29.4146 | 30.8691 | 30.2487 |
| 020009 | 23.1801 | 20.1930 | 18.4660 | 20.3801 |
| 020010 | 18.6417 | 23.6727 | 22.7559 | 21.4818 |
| 020011 | 29.4697 | 30.4727 | 28.0658 | 29.3006 |
| 020012 | 23.9259 | 24.8543 | 25.5320 | 24.7635 |
| 020013 | 26.8172 | 23.8847 | 28.1557 | 26.0576 |
| 020014 | 24.0932 | 27.3823 | 24.5875 | 25.3179 |
| 020017 | 24.9714 | 26.8319 | 28.0572 | 26.6405 |
| 020024 | 22.7263 | 24.0872 | 25.3205 | 24.0621 |
| 020025 | 27.1529 | 21.7557 | 20.2583 | 22.6334 |
| 030001 | 19.8695 | 20.3673 | 21.7869 | 20.6506 |
| 030002 | 21.6263 | 21.5977 | 21.8375 | 21.6886 |
| 030003 | 23.6722 | 23.4833 | 22.6804 | 23.3063 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 030004 | 17.7333 | 14.0711 | 15.5478 | 15.4308 |
| 030006 | 17.6409 | 18.2668 | 20.0273 | 18.6274 |
| 030007 | 18.5602 | 19.6708 | 21.5169 | 19.9379 |
| 030008 | * | 22.2758 | 22.2190 | 22.2524 |
| 030009 | 17.9343 | 18.1794 | 18.7557 | 18.2786 |
| 030010 | 18.7997 | 19.0907 | 19.5123 | 19.1422 |
| 030011 | 20.0784 | 19.2973 | 19.4310 | 19.5785 |
| 030012 | 19.4245 | 18.9918 | 20.6585 | 19.6997 |
| 030013 | 21.0182 | 20.7458 | 20.0535 | 20.5870 |
| 030014 | 19.4697 | 19.9315 | 19.7966 | 19.7342 |
| 030016 | 20.5606 | 19.3967 | 19.4785 | 19.8559 |
| 030017 | 20.4185 | 22.8765 | 21.7938 | 21.6805 |
| 030018 | 18.9115 | 20.2032 | 20.8980 | 20.0193 |
| 030019 | 19.9211 | 21.7005 | 21.2540 | 20.9846 |
| 030022 | 15.7886 | 19.2966 | 19.5794 | 17.6713 |
| 030023 | 22.4365 | 23.6697 | 24.1678 | 23.4686 |
| 030024 | 21.6692 | 22.2541 | 23.6009 | 22.5290 |
| 030025 | 17.6759 | 12.7254 | 11.9894 | 13.7385 |
| 030027 | 17.5796 | 15.7554 | 17.6555 | 16.9563 |
| 030030 | 21.6249 | 20.8303 | 21.6932 | 21.3795 |
| 030033 | 16.8396 | 20.0044 | 20.2820 | 18.9069 |
| 030034 | 19.0868 | 16.8241 | 20.8689 | 18.8279 |
| 030035 | 19.7153 | 19.2781 | 20.0226 | 19.6580 |
| 030036 | 18.9449 | 20.7567 | 21.6371 | 20.4743 |
| 030037 | 21.4376 | 22.8266 | 23.7615 | 22.6712 |
| 030038 | 22.0777 | 22.6776 | 22.9822 | 22.5885 |
| 030040 | 17.9722 | 18.5456 | 19.7636 | 18.7537 |
| 030041 | 17.4389 | 15.8921 | 18.8717 | 17.2718 |
| 030043 | 20.7721 | 20.9341 | 20.5598 | 20.7468 |
| 030044 | 16.4654 | 16.8649 | 17.6575 | 17.0214 |
| 030047 | 19.6916 | 22.6401 | 21.4412 | 21.2271 |
| 030049 | 19.0896 | 19.0881 | 19.3580 | 19.1639 |
| 030054 | 14.4861 | 15.3338 | 15.0657 | 14.9801 |
| 030055 | 18.2751 | 16.3613 | 20.2991 | 18.2684 |
| 030059 | 21.7100 | 24.0465 | 22.6279 | 22.7570 |
| 030060 | 16.7661 | 19.2461 | 18.6313 | 18.2043 |
| 030061 | 17.3470 | 18.9063 | 19.9047 | 18.7238 |
| 030062 | 17.4825 | 17.6738 | 18.7172 | 17.9978 |
| 030064 | 18.5391 | 19.5673 | 20.3837 | 19.5213 |
| 030065 | 19.9277 | 20.5130 | 20.7838 | 20.4254 |
| 030067 | 15.6207 | 14.4446 | 17.2778 | 15.7364 |
| 030068 | 17.3482 | 17.3614 | 17.7208 | 17.4823 |
| 030069 | 19.0013 | 19.0961 | 21.0936 | 19.7255 |
| 030080 | 19.9865 | 20.5144 | 20.6581 | 20.3684 |
| 030083 | 23.6433 | 23.3355 | 23.5229 | 23.4991 |
| 030085 | 17.8402 | 21.0954 | 20.8690 | 19.9451 |
| 030086 | 18.5030 | 19.5436 | * | 19.0352 |
| 030087 | 20.0469 | 21.4084 | 21.9465 | 21.1838 |
| 030088 | 19.5772 | 19.8682 | 20.5340 | 20.0152 |
| 030089 | 19.9018 | 20.4019 | 20.9516 | 20.4404 |
| 030092 | 21.5628 | 20.6986 | 21.8308 | 21.3646 |
| 030093 | 19.4688 | 19.7262 | 20.4314 | 19.9052 |
| 030094 | 19.4773 | 21.6218 | 22.8123 | 21.4086 |
| 030095 | 14.2499 | 13.7293 | 13.7664 | 13.9087 |
| 030099 | 18.0747 | 16.1541 | 18.2263 | 17.4781 |
| 030100 | * | * | 23.7609 | 23.7609 |
| 030101 | * | * | 19.2547 | 19.2547 |
| 030102 | * | * | 18.2413 | 18.2413 |
| 040001 | 15.5735 | 15.1624 | 16.9178 | 15.8741 |
| 040002 | 14.0865 | 13.0592 | 15.1107 | 14.0333 |
| 040003 | 14.0027 | 14.2089 | 15.5740 | 14.5731 |
| 040004 | 17.2926 | 17.8476 | 17.9034 | 17.6718 |
| 040005 | 12.8825 | 13.2597 | 11.1318 | 12.3937 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 040007 | 19.5299 | 21.9583 | 18.6998 | 19.9568 |
| 040008 | 12.6974 | 15.3040 | 14.7985 | 14.3087 |
| 040010 | 17.6231 | 18.6023 | 19.4913 | 18.6031 |
| 040011 | 12.2654 | 14.5319 | 16.0995 | 14.1756 |
| 040014 | 15.3853 | 17.6340 | 18.1434 | 17.0051 |
| 040015 | 14.6045 | 16.5891 | 15.5207 | 15.5649 |
| 040016 | 17.5431 | 19.0295 | 20.2321 | 18.9152 |
| 040017 | 14.9533 | 13.5098 | 15.4736 | 14.6592 |
| 040018 | 17.5602 | 17.6027 | 18.7463 | 17.9749 |
| 040019 | 25.7080 | 22.6769 | 23.4163 | 23.8479 |
| 040020 | 14.8059 | 16.4827 | 18.9844 | 16.6335 |
| 040021 | 16.4628 | 17.6398 | 19.6835 | 17.8176 |
| 040022 | 16.0006 | 17.0397 | 20.8281 | 17.7640 |
| 040024 | 15.7282 | 14.4541 | 17.6607 | 15.9615 |
| 040025 | 10.9496 | 11.5079 | 13.4705 | 11.8847 |
| 040026 | 18.2398 | 19.5563 | 19.7924 | 19.1863 |
| 040027 | 14.5406 | 16.0975 | 17.4431 | 16.0716 |
| 040028 | 12.8409 | 14.6584 | 13.9946 | 13.7921 |
| 040029 | 17.7777 | 17.8787 | 21.1370 | 18.9480 |
| 040030 | 14.1541 | 13.5428 | 11.2402 | 12.7784 |
| 040032 | 13.3280 | 13.7030 | 13.2872 | 13.4471 |
| 040035 | 11.2123 | 12.8300 | 10.9569 | 11.6408 |
| 040036 | 17.9080 | 18.9757 | 20.2012 | 19.0415 |
| 040037 | 13.4815 | 14.6559 | 14.0941 | 14.0704 |
| 040039 | 13.8386 | 14.3576 | 14.7177 | 14.3115 |
| 040040 | 17.4283 | 18.0895 | 19.1984 | 18.2668 |
| 040041 | 13.3613 | 15.9896 | 16.4624 | 15.2103 |
| 040042 | 14.6641 | 15.2142 | 15.2057 | 15.0333 |
| 040044 | 11.4422 | 12.6275 | 13.3501 | 12.5381 |
| 040045 | 18.7724 | 14.9429 | 16.2469 | 16.4870 |
| 040047 | 16.3948 | 16.8654 | 17.5336 | 16.9538 |
| 040048 | 15.8203 | * | * | 15.8203 |
| 040050 | 11.7934 | 13.3818 | 14.0036 | 13.0341 |
| 040051 | 16.2803 | 15.8627 | 16.6039 | 16.2390 |
| 040053 | 15.8193 | 16.3610 | 15.0219 | 15.7502 |
| 040054 | 15.0412 | 15.3219 | 14.2577 | 14.8844 |
| 040055 | 16.1029 | 17.1269 | 18.0414 | 17.0866 |
| 040058 | 15.6706 | 17.6766 | 16.4278 | 16.6344 |
| 040060 | 11.4686 | 12.8148 | 17.9805 | 13.6105 |
| 040062 | 17.2757 | 18.2048 | 17.8902 | 17.8204 |
| 040064 | 12.4007 | 10.7255 | 11.5029 | 11.4801 |
| 040066 | 17.6429 | 18.3377 | 19.7144 | 18.5416 |
| 040067 | 13.4930 | 14.6014 | 14.4741 | 14.1956 |
| 040069 | 16.1147 | 17.5052 | 17.0026 | 16.8681 |
| 040070 | 15.4757 | 16.9027 | 16.9700 | 16.4358 |
| 040071 | 16.3022 | 16.9610 | 17.6144 | 16.9553 |
| 040072 | 15.8425 | 16.0895 | 17.4960 | 16.4940 |
| 040074 | 17.3819 | 18.3224 | 18.7542 | 18.1968 |
| 040075 | 12.7496 | 13.3623 | 14.0975 | 13.3977 |
| 040076 | 18.5512 | 19.0732 | 20.5840 | 19.3801 |
| 040077 | 12.4625 | 12.9211 | 13.9114 | 13.0965 |
| 040078 | 17.8573 | 18.7600 | 18.5821 | 18.4100 |
| 040080 | 15.7397 | 19.2461 | 19.3707 | 18.0636 |
| 040081 | 10.6791 | 11.3169 | 11.1332 | 11.0311 |
| 040082 | 16.5127 | 16.2152 | 15.1331 | 15.9302 |
| 040084 | 17.2469 | 17.2613 | 17.7295 | 17.4070 |
| 040085 | 15.7765 | 16.8957 | 16.5216 | 16.3838 |
| 040088 | 15.6710 | 17.9636 | 17.1624 | 16.9372 |
| 040090 | 17.5503 | 17.8282 | 19.0824 | 18.0989 |
| 040091 | 17.0444 | 19.8700 | 20.1378 | 18.8893 |
| 040093 | 12.9010 | 12.3537 | 13.9741 | 13.0114 |
| 040100 | 14.9688 | 14.7587 | 15.6833 | 15.1704 |
| 040105 | 14.2409 | 15.3319 | 14.3896 | 14.6616 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 040106 | 15.4000 | 15.6545 | 18.1341 | 16.4515 |
| 040107 | 19.6184 | 18.8120 | 17.8628 | 18.6841 |
| 040109 | 13.9807 | 14.6266 | 16.6278 | 15.0815 |
| 040114 | 18.3133 | 18.8743 | 21.1231 | 19.3828 |
| 040116 | 19.5695 | 20.2716 | * | 19.9151 |
| 040118 | 17.4300 | 19.3720 | 18.2123 | 18.3407 |
| 040119 | 15.3847 | 15.5338 | 16.9407 | 15.9572 |
| 040124 | 17.2547 | 19.1349 | 19.2889 | 18.5723 |
| 040126 | 11.6845 | 12.5368 | 11.6517 | 11.9404 |
| 040132 | 13.1760 | 17.5179 | 10.3875 | 13.4483 |
| 040134 | * | 18.0787 | 19.0185 | 18.5701 |
| 040135 | * | 22.6761 | 23.0084 | 22.8797 |
| 050002 | 27.6006 | 37.8295 | 36.9630 | 33.5586 |
| 050006 | 19.5272 | 19.5594 | 18.2061 | 19.0382 |
| 050007 | 29.5398 | 30.7126 | 30.8676 | 30.4910 |
| 050008 | 25.8570 | 26.2458 | 26.3682 | 26.1654 |
| 050009 | 26.2506 | 26.8159 | 28.4734 | 27.2303 |
| 050013 | 24.8541 | 23.2201 | 28.0569 | 25.1985 |
| 050014 | 24.5302 | 22.8478 | 23.6745 | 23.6450 |
| 050015 | 25.3838 | 26.2481 | 27.7731 | 26.4938 |
| 050016 | 20.1542 | 20.5566 | 21.2045 | 20.6377 |
| 050017 | 23.6639 | 23.9625 | 25.6178 | 24.4113 |
| 050018 | 14.6622 | 15.4721 | 15.2903 | 15.1444 |
| 050021 | 28.5003 | 25.8966 | * | 27.2682 |
| 050022 | 22.9583 | 24.0318 | 24.5254 | 23.8802 |
| 050024 | 20.3427 | 21.3989 | 22.4274 | 21.4070 |
| 050025 | 21.9952 | 23.3896 | 24.8245 | 23.3764 |
| 050026 | 28.6850 | 27.8736 | 23.1904 | 26.4206 |
| 050028 | 16.4531 | 16.4671 | 17.6138 | 16.8496 |
| 050029 | 23.2911 | 25.1259 | 24.6839 | 24.3441 |
| 050030 | 21.0096 | 20.9812 | 21.5621 | 21.1955 |
| 050032 | 22.5868 | 25.2010 | 24.3598 | 24.0616 |
| 050033 | 24.5609 | 24.9328 | 32.0179 | 27.2378 |
| 050036 | 20.4703 | 21.2420 | 21.8239 | 21.1856 |
| 050038 | 27.8274 | 28.6528 | 29.9698 | 28.8293 |
| 050039 | 22.2524 | 22.7117 | 22.8288 | 22.6033 |
| 050040 | 30.6664 | 32.1287 | 30.2607 | 31.0150 |
| 050042 | 22.2343 | 24.8067 | 24.5260 | 23.8317 |
| 050043 | 33.2286 | 32.9958 | 33.8255 | 33.3456 |
| 050045 | 20.7307 | 19.8831 | 21.1474 | 20.5973 |
| 050046 | 31.3831 | 25.3185 | 25.2005 | 27.4555 |
| 050047 | 29.4412 | 29.9255 | 29.9580 | 29.7840 |
| 050051 | 17.8401 | 17.8945 | 18.7809 | 18.1179 |
| 050054 | 19.3686 | 20.7212 | 22.0982 | 20.7075 |
| 050055 | 29.0872 | 29.3984 | 29.2730 | 29.2593 |
| 050056 | 23.8507 | 27.4321 | 23.8396 | 24.9757 |
| 050057 | 21.7581 | 21.1554 | 20.7420 | 21.1969 |
| 050058 | 25.7261 | 23.1641 | 23.3009 | 23.9601 |
| 050060 | 20.9219 | 20.7747 | 20.5450 | 20.7207 |
| 050061 | 23.7443 | 23.5454 | 24.5488 | 23.9503 |
| 050063 | 23.0724 | 24.8851 | 25.7593 | 24.5061 |
| 050065 | 21.1848 | 24.0420 | 24.6290 | 23.1479 |
| 050066 | 21.4187 | 16.5725 | 16.1649 | 17.6784 |
| 050067 | 21.3029 | 23.1966 | 25.8857 | 23.3989 |
| 050068 | 28.4804 | 20.6851 | 19.3615 | 22.4409 |
| 050069 | 29.2980 | 25.9420 | 24.6153 | 26.4351 |
| 050070 | 32.5964 | 32.5166 | 34.0721 | 33.0817 |
| 050071 | 33.1379 | 33.1850 | 34.4367 | 33.6139 |
| 050072 | 32.9660 | 33.2858 | 39.7321 | 35.2928 |
| 050073 | 34.6111 | 33.3922 | 32.8555 | 33.5664 |
| 050075 | 33.5246 | 33.9095 | 33.7160 | 33.7090 |
| 050076 | 33.8835 | 27.7797 | 33.9752 | 31.7128 |
| 050077 | 23.2986 | 24.1019 | 24.1404 | 23.8541 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 050078 | 22.8023 | 23.0736 | 24.3150 | 23.3638 |
| 050079 | 34.4253 | 33.2432 | 30.0167 | 32.3461 |
| 050082 | 21.7004 | 22.1009 | 23.7617 | 22.5498 |
| 050084 | 23.0966 | 23.5866 | 25.4517 | 24.0054 |
| 050088 | 24.0634 | 20.8406 | 24.9641 | 23.1779 |
| 050089 | 20.0194 | 20.9117 | 22.8450 | 21.2533 |
| 050090 | 23.8969 | 23.4097 | 24.6070 | 23.9625 |
| 050091 | 22.2220 | 25.2792 | 23.7713 | 23.6457 |
| 050092 | 15.3841 | 16.7969 | 17.1211 | 16.4241 |
| 050093 | 24.0837 | 25.2130 | 25.6647 | 24.9860 |
| 050095 | 33.3761 | 33.6718 | 30.4847 | 32.6392 |
| 050096 | 21.6752 | 20.0487 | 22.7394 | 21.3870 |
| 050097 | 22.6147 | 16.7054 | 22.5991 | 20.1968 |
| 050099 | 24.2921 | 24.8091 | 25.3722 | 24.8349 |
| 050100 | 30.0552 | 29.8758 | 25.2031 | 28.1754 |
| 050101 | 30.0132 | 31.0264 | 31.8957 | 30.9871 |
| 050102 | 21.2947 | 22.2937 | 24.0014 | 22.4745 |
| 050103 | 25.3384 | 24.7932 | 25.4133 | 25.1832 |
| 050104 | 25.4407 | 25.5797 | 26.9726 | 25.9841 |
| 050107 | 21.7649 | 21.2690 | 22.2019 | 21.7497 |
| 050108 | 25.2116 | 23.5564 | 25.1758 | 24.5678 |
| 050109 | 26.4768 | * | * | 26.4768 |
| 050110 | 20.1769 | 20.1870 | 19.9589 | 20.1175 |
| 050111 | 21.7397 | 21.5487 | 20.7897 | 21.3840 |
| 050112 | 26.2922 | 25.3015 | 26.8182 | 26.1335 |
| 050113 | 27.7805 | 28.8420 | 28.5224 | 28.4025 |
| 050114 | 25.9073 | 24.7286 | 26.6757 | 25.7599 |
| 050115 | 21.0499 | 21.3291 | 23.0182 | 21.8124 |
| 050116 | 25.5919 | 25.2130 | 24.9196 | 25.2412 |
| 050117 | 20.4379 | 23.3612 | 22.2123 | 21.9903 |
| 050118 | 23.9976 | 23.7698 | 23.7129 | 23.8243 |
| 050121 | 18.8818 | 19.5252 | 18.7272 | 19.0416 |
| 050122 | * | 26.3172 | 26.9546 | 26.6358 |
| 050124 | 23.0193 | 22.7736 | 24.5069 | 23.3667 |
| 050125 | 24.0434 | 29.6147 | 32.0230 | 28.3742 |
| 050126 | 23.8424 | 23.9247 | 24.6752 | 24.1448 |
| 050127 | 19.7654 | 22.1937 | 20.9027 | 20.9520 |
| 050128 | 24.1801 | 25.7240 | 26.6132 | 25.5185 |
| 050129 | 27.1586 | 26.5030 | 24.0108 | 25.7227 |
| 050131 | 29.0570 | 31.0732 | 32.5462 | 30.8106 |
| 050132 | 22.9139 | 24.0834 | 24.0173 | 23.6527 |
| 050133 | 24.4011 | 24.9746 | 23.2093 | 24.1354 |
| 050135 | 27.0341 | 23.2361 | 24.7157 | 24.9796 |
| 050136 | 24.4336 | 24.7921 | 24.7280 | 24.6450 |
| 050137 | 30.0725 | 32.6507 | 32.9192 | 31.8970 |
| 050138 | 37.4088 | 37.3286 | 38.1584 | 37.6483 |
| 050139 | 31.3785 | 32.9351 | 31.4984 | 31.9286 |
| 050140 | 33.6644 | 34.1499 | 32.7609 | 33.4990 |
| 050144 | 25.7483 | 27.8751 | 27.4069 | 26.9409 |
| 050145 | 33.0620 | 32.3857 | 34.5185 | 33.3152 |
| 050148 | 21.0584 | 21.9211 | 20.0971 | 20.9748 |
| 050149 | 23.3754 | 24.6078 | 26.8674 | 24.8666 |
| 050150 | 23.4777 | 24.9073 | 24.6596 | 24.3771 |
| 050152 | 27.7504 | 34.0766 | 33.3305 | 31.5833 |
| 050153 | 29.5915 | 30.5714 | 32.3389 | 30.8441 |
| 050155 | 22.9420 | 21.0257 | 25.3354 | 22.9852 |
| 050158 | 27.9789 | 27.5623 | 28.6071 | 28.0313 |
| 050159 | 25.2105 | 23.2912 | 22.5313 | 23.6099 |
| 050167 | 21.6778 | 21.9128 | 21.8796 | 21.8226 |
| 050168 | 25.2504 | 23.3511 | 25.1937 | 24.5830 |
| 050169 | 24.6361 | 22.3888 | 24.8407 | 23.8796 |
| 050170 | 22.1989 | 23.9574 | 24.3654 | 23.4164 |
| 050172 | 17.6976 | 20.1841 | 19.6120 | 19.1630 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 050173 | 23.3255 | 24.5545 | 24.8694 | 24.1923 |
| 050174 | 31.2136 | 30.2140 | 30.2775 | 30.5443 |
| 050175 | 27.7875 | 27.2806 | 24.7548 | 26.2477 |
| 050177 | 20.2485 | 21.7943 | 21.1396 | 21.0728 |
| 050179 | 19.2861 | 21.7175 | 23.8868 | 21.4573 |
| 050180 | 32.1883 | 31.8947 | 33.3257 | 32.5107 |
| 050183 | 19.9765 | 20.3638 | * | 20.1665 |
| 050186 | 21.9062 | 22.4155 | 23.6288 | 22.6119 |
| 050188 | 27.4364 | 28.0918 | 28.2364 | 27.9460 |
| 050189 | 23.2415 | 22.8687 | 27.4071 | 24.6245 |
| 050191 | 26.7297 | 20.8321 | 25.3516 | 24.1885 |
| 050192 | 17.8095 | 18.6701 | 14.1996 | 16.5873 |
| 050193 | 23.7260 | 22.6316 | 24.9444 | 23.7567 |
| 050194 | 28.2701 | 29.7371 | 29.5678 | 29.1714 |
| 050195 | 34.7789 | 35.5621 | 36.9068 | 35.7823 |
| 050196 | 16.6866 | 18.5180 | 18.2411 | 17.8430 |
| 050197 | 31.4513 | 35.7449 | 32.4030 | 33.0882 |
| 050204 | 24.3944 | 23.6105 | 22.7099 | 23.5849 |
| 050205 | 21.1545 | 23.6831 | 24.1691 | 23.0778 |
| 050207 | 20.8576 | 21.6214 | 22.9941 | 21.8243 |
| 050211 | 31.2175 | 31.6084 | 31.7280 | 31.5153 |
| 050213 | 20.7338 | 21.4806 | 21.4951 | 21.1847 |
| 050214 | 20.8704 | 21.7335 | 24.0276 | 22.1888 |
| 050215 | 28.4058 | 29.8563 | 35.0459 | 31.0290 |
| 050217 | 19.8913 | 19.6010 | 20.2042 | 19.9076 |
| 050219 | 25.4730 | 21.7444 | 21.2458 | 22.6404 |
| 050222 | 27.0713 | 27.4809 | 23.3563 | 25.7959 |
| 050224 | 23.7942 | 23.5316 | 23.5101 | 23.6043 |
| 050225 | 20.7978 | 23.3480 | 21.6820 | 21.9144 |
| 050226 | 26.9297 | 27.7315 | 24.4443 | 26.2380 |
| 050228 | 30.3772 | 34.0711 | 34.2596 | 32.7722 |
| 050230 | 25.3640 | 27.7357 | 26.6291 | 26.5638 |
| 050231 | 25.5798 | 26.1508 | 26.7321 | 26.1759 |
| 050232 | 23.3849 | 24.3072 | 24.5245 | 24.0793 |
| 050233 | 31.3954 | * | * | 31.3954 |
| 050234 | 28.5188 | 25.7035 | 24.6126 | 26.2702 |
| 050235 | 25.8595 | 25.2527 | 27.0922 | 26.0726 |
| 050236 | 26.2723 | 26.9803 | 25.9458 | 26.4027 |
| 050238 | 24.0043 | 24.2922 | 24.5823 | 24.2994 |
| 050239 | 20.4071 | 22.6625 | 23.2711 | 22.0940 |
| 050240 | 25.2540 | 26.3657 | 26.7620 | 26.0528 |
| 050241 | 27.2198 | 26.3740 | 29.8345 | 27.7426 |
| 050242 | 30.1432 | 31.1576 | 32.0829 | 31.1145 |
| 050243 | 22.9123 | 28.9635 | 26.4627 | 26.1049 |
| 050245 | 24.3969 | 23.8124 | 23.2716 | 23.7873 |
| 050248 | 27.4214 | 26.2015 | 27.6457 | 27.0910 |
| 050251 | 18.4990 | 21.6574 | 23.6360 | 21.1907 |
| 050253 | 20.0658 | 16.0701 | 16.7540 | 17.4281 |
| 050254 | 19.6899 | 19.3126 | 20.1176 | 19.7146 |
| 050256 | 23.5302 | 23.6887 | 23.4835 | 23.5723 |
| 050257 | 19.5923 | 15.2306 | 17.2596 | 17.1813 |
| 050260 | 23.5201 | 23.2421 | 27.4234 | 24.5032 |
| 050261 | 20.4496 | 20.0552 | 20.1040 | 20.2029 |
| 050262 | 29.0054 | 28.8785 | 29.5550 | 29.1532 |
| 050264 | 29.4542 | 32.1312 | 36.0331 | 32.4545 |
| 050267 | 24.7464 | 26.2264 | 26.0401 | 25.6690 |
| 050270 | 23.7260 | 24.0439 | 25.3757 | 24.3521 |
| 050272 | 21.4374 | 22.4247 | 23.0587 | 22.2948 |
| 050274 | 21.1943 | 20.0422 | * | 20.6204 |
| 050276 | 28.5051 | 29.8624 | 33.3302 | 30.5715 |
| 050277 | 22.3125 | 20.0520 | 26.0822 | 22.5131 |
| 050278 | 23.8434 | 24.7787 | 23.9289 | 24.1853 |
| 050279 | 21.0570 | 20.8444 | 21.8949 | 21.2309 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 050280 | 24.4267 | 25.2149 | 25.6651 | 25.1337 |
| 050281 | 18.5907 | 19.6888 | 24.2251 | 20.7934 |
| 050282 | 24.4593 | 28.8261 | 25.4428 | 26.2214 |
| 050283 | 27.8763 | 29.7734 | 31.7669 | 30.1598 |
| 050286 | 17.8045 | 16.5708 | 19.4241 | 17.6805 |
| 050289 | 26.7185 | 34.1393 | 30.4750 | 30.2632 |
| 050290 | 26.3745 | 28.6231 | 29.6796 | 28.2631 |
| 050291 | 26.4908 | 30.2748 | 29.4029 | 28.6899 |
| 050292 | 22.4878 | 21.6243 | 20.8410 | 21.6183 |
| 050293 | 19.1761 | 22.2963 | 24.1875 | 21.4642 |
| 050295 | 20.7393 | 21.2892 | 21.7883 | 21.2665 |
| 050296 | 25.3166 | 27.2948 | 28.3906 | 27.0098 |
| 050298 | 20.5181 | 24.4477 | 23.2006 | 22.6781 |
| 050299 | 25.7697 | 26.4543 | 25.5035 | 25.9187 |
| 050300 | 22.7423 | 23.5116 | 25.9228 | 24.1102 |
| 050301 | 26.0355 | 22.5201 | 21.1403 | 23.0323 |
| 050302 | 29.2007 | * | * | 29.2007 |
| 050305 | 32.7082 | 34.5185 | 36.7908 | 34.7340 |
| 050307 | 27.9830 | 17.2147 | * | 21.7503 |
| 050308 | 28.4019 | 29.3803 | 28.9284 | 28.9113 |
| 050309 | 24.4034 | 23.7884 | 25.3515 | 24.5133 |
| 050310 | 20.6181 | * | * | 20.6181 |
| 050312 | 23.7936 | 26.7617 | 26.0015 | 25.5439 |
| 050313 | 23.1009 | 21.7577 | 25.6827 | 23.5594 |
| 050315 | 21.9227 | 24.7086 | 22.7359 | 23.0264 |
| 050317 | 19.4479 | 21.6937 | * | 20.5789 |
| 050320 | 30.6054 | 30.4101 | 32.4809 | 31.1252 |
| 050324 | 26.2735 | 26.6049 | 25.3694 | 26.0738 |
| 050325 | 23.2355 | 24.4862 | 23.6327 | 23.7872 |
| 050327 | 22.8511 | 23.9484 | 25.6450 | 24.1469 |
| 050328 | 23.1889 | * | * | 23.1889 |
| 050329 | 21.4125 | 19.7455 | 21.6984 | 20.9322 |
| 050331 | 25.5252 | 22.2536 | 25.0230 | 24.1261 |
| 050333 | 20.1468 | 19.4589 | 19.1449 | 19.5671 |
| 050334 | 32.0169 | 34.2330 | 34.2557 | 33.5307 |
| 050335 | 20.2013 | 23.0258 | 22.9926 | 22.0827 |
| 050336 | 20.0980 | 20.7979 | 21.3402 | 20.7523 |
| 050342 | 19.3524 | 20.1841 | 20.8255 | 20.1210 |
| 050343 | 17.3394 | 17.2085 | * | 17.2799 |
| 050348 | 20.7505 | 23.8779 | 25.1085 | 23.3219 |
| 050349 | 15.0515 | 14.9754 | 15.0667 | 15.0310 |
| 050350 | 25.0676 | 24.8340 | 26.4161 | 25.4163 |
| 050351 | 24.6936 | 25.4791 | 24.8121 | 24.9948 |
| 050352 | 23.5927 | 26.1380 | 26.4262 | 25.4187 |
| 050353 | 23.2468 | 23.0564 | 23.2699 | 23.1944 |
| 050355 | 17.1597 | 17.2778 | 21.0969 | 18.0157 |
| 050357 | 23.6411 | 22.6545 | 24.5345 | 23.6386 |
| 050359 | 20.4005 | 17.7907 | 21.7548 | 19.8316 |
| 050360 | 31.7608 | 31.3526 | 31.7583 | 31.6236 |
| 050366 | 21.3442 | 23.7528 | 19.6823 | 21.4770 |
| 050367 | 29.4763 | 28.2805 | 30.7328 | 29.5063 |
| 050369 | 24.2604 | 27.0548 | 26.2234 | 25.8174 |
| 050373 | 26.6548 | 26.9776 | 27.8275 | 27.1333 |
| 050376 | 25.3036 | 26.5840 | 28.0990 | 26.5882 |
| 050377 | 25.6401 | 17.1764 | 17.0012 | 20.1035 |
| 050378 | 22.2363 | 25.9810 | 26.9101 | 24.8709 |
| 050379 | 15.4994 | 15.2022 | 18.4278 | 16.2767 |
| 050380 | 30.5790 | 31.4343 | 31.9578 | 31.3600 |
| 050382 | 26.1465 | 26.1398 | 25.9244 | 26.0725 |
| 050385 | 25.9188 | 24.6083 | * | 25.2398 |
| 050388 | 13.7863 | 19.1512 | 22.0122 | 17.5709 |
| 050390 | 22.5668 | 25.0426 | 24.2700 | 23.9349 |
| 050391 | 22.4881 | 18.9266 | 20.0615 | 20.3952 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 050392 | 21.9324 | 21.6729 | 22.9430 | 22.1487 |
| 050393 | 23.1387 | 25.6964 | 24.1981 | 24.3082 |
| 050394 | 22.2424 | 23.0604 | 23.1526 | 22.8333 |
| 050396 | 23.6322 | 24.0636 | 25.3729 | 24.3512 |
| 050397 | 20.7698 | 20.2601 | 20.6397 | 20.5453 |
| 050401 | 17.7807 | 20.7473 | 18.4593 | 18.9557 |
| 050404 | 19.2754 | 17.3396 | 15.9839 | 17.4356 |
| 050406 | 16.8931 | 17.3016 | 17.8596 | 17.3407 |
| 050407 | 30.1222 | 29.9642 | 30.8346 | 30.2996 |
| 050410 | 16.4735 | 17.6769 | 19.8508 | 17.8663 |
| 050411 | 32.2364 | 34.8899 | 33.1943 | 33.4145 |
| 050414 | 24.4243 | 24.2060 | 25.9723 | 24.9224 |
| 050417 | 21.8884 | 21.5739 | 23.3005 | 22.2456 |
| 050419 | 23.1162 | 23.7584 | 23.4936 | 23.4646 |
| 050420 | 22.6819 | 22.3166 | 23.5438 | 22.8448 |
| 050423 | 23.3296 | 17.3771 | 21.3552 | 20.6272 |
| 050424 | 23.7788 | 22.8350 | 24.0727 | 23.5641 |
| 050425 | 33.6911 | 32.8364 | 35.3712 | 34.0224 |
| 050426 | 23.7082 | 25.2453 | 29.0120 | 25.8759 |
| 050427 | 20.0698 | 20.1674 | 16.4330 | 18.6499 |
| 050430 | 21.3428 | 23.8788 | 21.2275 | 22.2136 |
| 050432 | 21.4984 | 24.4133 | 24.5630 | 23.4427 |
| 050433 | 16.8035 | 17.4643 | 18.9021 | 17.7004 |
| 050434 | 15.6348 | 19.7591 | * | 17.6624 |
| 050435 | 32.9865 | 25.6676 | 23.3426 | 26.8858 |
| 050436 | 16.3594 | 14.8121 | * | 15.5729 |
| 050438 | 24.0828 | 25.0138 | 23.2583 | 24.1266 |
| 050440 | 21.1100 | 23.5167 | 22.5400 | 22.3553 |
| 050441 | 28.7067 | 28.9804 | 31.8774 | 29.8169 |
| 050443 | 16.4308 | 19.9020 | 17.2875 | 17.7906 |
| 050444 | 24.6741 | 21.4533 | 22.4530 | 22.8550 |
| 050446 | 20.5383 | 20.4908 | 22.3422 | 21.1378 |
| 050447 | 18.4183 | 17.9751 | 18.9851 | 18.4558 |
| 050448 | 20.0757 | 19.7046 | 21.7718 | 20.5035 |
| 050449 | 22.1784 | 23.8001 | 23.4614 | 23.1469 |
| 050454 | 28.6857 | 28.7432 | 30.0792 | 29.2410 |
| 050455 | 19.9209 | 20.1643 | 19.8577 | 19.9840 |
| 050456 | 17.6229 | 20.1254 | 18.1585 | 18.5890 |
| 050457 | 31.2489 | 34.4949 | 32.1910 | 32.6376 |
| 050459 | 37.0914 | * | * | 37.0914 |
| 050464 | 22.3142 | 25.3292 | 25.7710 | 24.4665 |
| 050468 | 23.1701 | 23.3050 | 22.2926 | 22.8998 |
| 050469 | 23.4404 | 23.8759 | 24.5205 | 23.8915 |
| 050470 | 17.0353 | 16.0292 | 16.0805 | 16.3264 |
| 050471 | 24.2887 | 25.6172 | 27.1597 | 25.6415 |
| 050476 | 23.1428 | 22.4754 | 24.0253 | 23.2552 |
| 050477 | 27.7855 | 27.9595 | 27.5819 | 27.7866 |
| 050478 | 23.0530 | 24.5401 | 26.3306 | 24.6133 |
| 050481 | 26.8293 | 28.9722 | 27.7973 | 27.8692 |
| 050482 | 16.9268 | 18.1217 | 16.0114 | 17.0134 |
| 050483 | 21.6038 | 22.7182 | * | 22.1632 |
| 050485 | 23.1933 | 24.1983 | 24.6906 | 24.0174 |
| 050486 | 24.4967 | * | * | 24.4967 |
| 050488 | 32.8620 | 34.6939 | 31.7481 | 33.0979 |
| 050491 | 25.1011 | 26.8703 | 27.4600 | 26.4606 |
| 050492 | 21.4156 | 19.5457 | 20.5030 | 20.4277 |
| 050494 | 25.4078 | 29.2621 | 29.1296 | 27.9125 |
| 050496 | 33.0168 | 32.5168 | 34.9704 | 33.4862 |
| 050497 | * | 13.8110 | 15.4115 | 14.5264 |
| 050498 | 24.8445 | 24.9677 | 26.1716 | 25.3085 |
| 050502 | 22.6253 | 22.3788 | 25.3701 | 23.4214 |
| 050503 | 23.5911 | 24.4069 | 23.3745 | 23.7879 |
| 050506 | 21.2165 | 25.0845 | 25.0333 | 23.8164 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 050510 | 33.4617 | 33.3774 | 33.7481 | 33.5309 |
| 050512 | 34.3138 | 35.3581 | 34.4368 | 34.6837 |
| 050515 | 35.0412 | 35.3419 | 33.7321 | 34.6571 |
| 050516 | 25.1850 | 24.7992 | 26.1969 | 25.4171 |
| 050517 | 20.3733 | 20.9550 | 22.0985 | 21.1081 |
| 050522 | 31.7326 | 35.3784 | 36.2127 | 34.2256 |
| 050523 | 28.4235 | 27.0544 | 31.2522 | 28.8864 |
| 050526 | 26.9206 | 23.8099 | 26.4014 | 25.6096 |
| 050528 | 18.6898 | 19.0611 | 18.9155 | 18.8867 |
| 050531 | 20.7332 | 22.7308 | 21.3948 | 21.6689 |
| 050534 | 23.3026 | 24.0700 | 24.0001 | 23.7954 |
| 050535 | 24.2257 | 25.4215 | 26.8511 | 25.4120 |
| 050537 | 22.2073 | 22.2256 | 24.0354 | 22.8159 |
| 050539 | 23.2501 | 20.7129 | 23.3846 | 22.4405 |
| 050541 | 34.6195 | 34.4573 | 36.6149 | 35.2691 |
| 050542 | 17.8537 | 16.0892 | 17.7737 | 17.2018 |
| 050543 | 23.0437 | 22.3994 | 21.6795 | 22.3610 |
| 050545 | 27.5713 | 26.3304 | 31.7280 | 27.9472 |
| 050546 | 27.7557 | 26.1949 | 38.8087 | 28.7303 |
| 050547 | 27.0845 | 26.8305 | 37.7681 | 28.7499 |
| 050548 | 26.5922 | 28.8083 | 29.8516 | 28.2370 |
| 050549 | 27.9098 | 27.2765 | 28.9615 | 28.0769 |
| 050550 | 25.7546 | 24.8048 | 25.6588 | 25.4034 |
| 050551 | 24.0488 | 25.4652 | 24.8084 | 24.7966 |
| 050552 | 22.8731 | 21.5216 | 20.3239 | 21.6775 |
| 050557 | 22.1385 | 21.1243 | 22.2562 | 21.8314 |
| 050559 | 24.6689 | 23.5759 | 24.7866 | 24.3485 |
| 050561 | 33.9268 | 34.5791 | 33.4423 | 33.9701 |
| 050564 | 24.5099 | 23.5922 | 24.2091 | 24.0891 |
| 050565 | 22.8785 | 23.7829 | 20.8349 | 22.3644 |
| 050566 | 18.3297 | 17.4423 | 22.3448 | 19.2949 |
| 050567 | 24.2349 | 24.6454 | 25.0787 | 24.6746 |
| 050568 | 20.5205 | 19.5816 | 20.5376 | 20.2025 |
| 050569 | 24.9453 | 26.5479 | 27.3429 | 26.2484 |
| 050570 | 24.4961 | 25.2294 | 25.8619 | 25.1838 |
| 050571 | 24.3741 | 26.2039 | 24.0154 | 24.8290 |
| 050573 | 25.1398 | 24.9644 | 25.6589 | 25.2612 |
| 050575 | * | 19.5611 | 20.7090 | 20.0979 |
| 050577 | 20.5177 | 25.1549 | 23.5487 | 22.9797 |
| 050578 | 28.9073 | 28.5379 | 28.9009 | 28.7846 |
| 050579 | 30.0694 | 30.4952 | 29.9348 | 30.1803 |
| 050580 | 23.9183 | 25.9004 | 24.6962 | 24.8350 |
| 050581 | 23.5660 | 23.8584 | 24.9807 | 24.1454 |
| 050583 | 23.3609 | 24.3987 | 25.8800 | 24.5448 |
| 050584 | 23.1610 | 21.2366 | 19.5805 | 21.2667 |
| 050585 | 26.4985 | 25.9426 | 24.2824 | 25.5872 |
| 050586 | 23.8402 | 23.4079 | 23.1850 | 23.4570 |
| 050588 | 30.3873 | 25.3094 | 24.5472 | 26.4705 |
| 050589 | 24.3453 | 24.8698 | 23.8880 | 24.3389 |
| 050590 | * | 22.4480 | 24.4797 | 23.4541 |
| 050591 | 22.3224 | 23.9412 | 25.0209 | 23.7207 |
| 050592 | 26.0528 | 21.1745 | 22.1174 | 23.0414 |
| 050594 | 22.7826 | 27.1584 | 27.7002 | 25.6455 |
| 050597 | 23.1789 | 22.8523 | 23.3280 | 23.1176 |
| 050598 | 28.1062 | 24.3597 | 23.9202 | 25.2869 |
| 050599 | 26.3191 | 29.1221 | 26.0892 | 27.1846 |
| 050601 | 32.8704 | 31.8670 | 29.7417 | 31.4201 |
| 050603 | 22.7500 | 23.3390 | 21.7031 | 22.5608 |
| 050604 | 33.3239 | 34.0461 | 35.4034 | 34.3023 |
| 050607 | 24.1052 | * | * | 24.1052 |
| 050608 | 16.1529 | 18.0947 | 18.1664 | 17.4208 |
| 050609 | 31.9340 | 34.9935 | 33.5028 | 33.4973 |
| 050613 | 23.4779 | 23.3835 | 30.2413 | 25.4419 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

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| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 050615 | 23.7015 | 23.8815 | 27.5682 | 24.9089 |
| 050616 | 22.7960 | 22.7437 | 24.9843 | 23.5101 |
| 050618 | 21.7032 | 21.6509 | 21.4895 | 21.6219 |
| 050623 | 30.3208 | 29.1806 | 27.5832 | 29.0384 |
| 050624 | 22.3419 | 22.7148 | 26.4659 | 23.7251 |
| 050625 | 24.3503 | 26.4849 | 27.5816 | 26.1377 |
| 050630 | 24.0961 | 23.9159 | 24.2120 | 24.0782 |
| 050633 | 21.9790 | 23.1918 | 25.4283 | 23.5401 |
| 050635 | 37.8481 | * | * | 37.8481 |
| 050636 | 20.8349 | 21.2618 | 23.5257 | 21.8335 |
| 050638 | 23.6341 | 18.2859 | 18.2159 | 19.5807 |
| 050641 | 21.3605 | 21.8315 | 17.1258 | 19.7042 |
| 050644 | 23.1229 | 22.3456 | 22.1489 | 22.5048 |
| 050661 | 20.4769 | 19.6780 | * | 20.1699 |
| 050662 | 28.2910 | 26.9606 | 35.0989 | 28.9225 |
| 050663 | 23.7097 | 30.6591 | 24.9110 | 25.8492 |
| 050667 | 24.1064 | 24.9979 | 27.5045 | 25.1663 |
| 050668 | 39.9001 | 42.0974 | 61.7751 | 44.9671 |
| 050670 | 21.8750 | 20.0152 | 24.6101 | 21.9523 |
| 050674 | 36.2361 | 34.7380 | 32.4807 | 34.3308 |
| 050675 | 15.8423 | 15.6794 | * | 15.7602 |
| 050676 | 17.5302 | 18.6672 | 20.2087 | 18.7455 |
| 050677 | 33.7056 | 35.6503 | 33.6070 | 34.3198 |
| 050678 | 22.6591 | 26.8741 | 22.7756 | 23.9129 |
| 050680 | 27.3188 | 28.0584 | 31.4839 | 28.9200 |
| 050682 | 17.9715 | 26.2882 | 17.3566 | 19.6443 |
| 050684 | 21.8067 | 22.3398 | 23.3697 | 22.4849 |
| 050685 | 32.1330 | 31.1725 | 35.1307 | 32.7762 |
| 050686 | 33.2515 | 35.2631 | 33.4420 | 33.9679 |
| 050688 | 29.9990 | 30.6635 | 31.0648 | 30.5922 |
| 050689 | 34.1851 | 30.7295 | 30.9399 | 31.8127 |
| 050690 | 33.8277 | 32.8204 | 34.8112 | 33.8469 |
| 050693 | 33.2977 | 26.8265 | 25.5662 | 28.3155 |
| 050694 | 22.5719 | 23.2293 | 23.5572 | 23.1120 |
| 050695 | 23.5215 | 21.1377 | 24.4301 | 23.0784 |
| 050696 | 26.4103 | 28.0015 | 28.3291 | 27.6235 |
| 050697 | 21.4716 | 21.1566 | 18.2338 | 20.1433 |
| 050699 | 28.4754 | 25.7843 | 17.5296 | 23.1610 |
| 050700 | 28.4522 | * | * | 28.4522 |
| 050701 | 27.6190 | 22.6959 | 24.3055 | 24.7548 |
| 050702 | 12.2518 | * | * | 12.2518 |
| 050704 | 20.7568 | 22.8716 | 22.7618 | 22.3025 |
| 050707 | 27.5065 | 26.2732 | 27.8958 | 27.2979 |
| 050708 | 21.9149 | 22.7821 | 24.8647 | 23.2324 |
| 050709 | 19.4255 | 21.9598 | 19.4977 | 20.2535 |
| 050710 | 26.8095 | 26.9060 | 27.5828 | 27.1479 |
| 050713 | 15.3027 | 17.7259 | 16.8538 | 16.6077 |
| 050714 | * | 28.9314 | 30.1925 | 29.4900 |
| 050715 | 19.1151 | * | * | 19.1151 |
| 050717 | * | 25.9534 | 28.7973 | 27.3346 |
| 050718 | * | 17.6062 | 18.0940 | 17.8064 |
| 050719 | * | 25.5508 | 23.0833 | 23.8495 |
| 050720 | * | * | 25.8677 | 25.8677 |
| 060001 | 20.5908 | 21.3659 | 21.1819 | 21.0411 |
| 060003 | 19.3243 | 19.8023 | 20.4682 | 19.8685 |
| 060004 | 21.7899 | 22.8750 | 21.4496 | 22.0469 |
| 060006 | 17.8613 | 19.3651 | 20.0213 | 19.0568 |
| 060007 | 16.3833 | 17.4682 | 18.2977 | 17.3945 |
| 060008 | 17.0944 | 18.0333 | 18.4590 | 17.8646 |
| 060009 | 21.1795 | 21.4312 | 22.7164 | 21.8027 |
| 060010 | 22.7241 | 24.0872 | 23.6827 | 23.5135 |
| 060011 | 21.9727 | 23.4366 | 22.3458 | 22.5831 |
| 060012 | 19.7746 | 20.1442 | 19.4932 | 19.7974 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 060013 | 19.1369 | 22.7346 | 19.1256 | 20.3432 |
| 060014 | 20.5353 | 24.2459 | 24.3210 | 23.0067 |
| 060015 | 23.5675 | 20.9773 | 23.2469 | 22.5866 |
| 060016 | 15.9627 | 16.4707 | 20.2408 | 17.3661 |
| 060018 | 21.8607 | 20.3183 | 21.5083 | 21.2146 |
| 060020 | 17.7250 | 18.3099 | 18.8985 | 18.3187 |
| 060022 | 19.6488 | 21.0558 | 21.0830 | 20.6200 |
| 060023 | 19.6534 | 19.2373 | 21.5475 | 20.1296 |
| 060024 | 22.8347 | 21.9955 | 22.9185 | 22.5887 |
| 060027 | 21.6731 | 20.9846 | 22.0713 | 21.5836 |
| 060028 | 22.2461 | 23.2065 | 23.1792 | 22.8860 |
| 060029 | 21.4111 | 20.8585 | 18.2938 | 20.0752 |
| 060030 | 20.0345 | 20.5002 | 20.3452 | 20.2923 |
| 060031 | 19.3998 | 21.1649 | 22.5067 | 20.9951 |
| 060032 | 22.3702 | 23.4162 | 22.8123 | 22.8765 |
| 060033 | 13.8165 | 15.9085 | 16.0760 | 15.2591 |
| 060034 | 21.4110 | 22.4791 | 23.2816 | 22.4305 |
| 060036 | 19.2386 | 15.0698 | 18.5988 | 17.4095 |
| 060037 | 14.0458 | 15.5611 | 15.4513 | 15.0213 |
| 060038 | 14.3084 | 14.0791 | 14.3249 | 14.2429 |
| 060041 | 14.8299 | 14.8934 | 19.1263 | 15.9980 |
| 060042 | 20.0815 | 19.1892 | 20.8597 | 19.9134 |
| 060043 | 13.0544 | 13.6717 | 13.4443 | 13.3963 |
| 060044 | 22.5286 | 19.7039 | 20.8673 | 21.1240 |
| 060046 | 20.4359 | 19.4567 | 22.2699 | 20.7384 |
| 060047 | 15.1181 | 15.8770 | 17.1534 | 15.9786 |
| 060049 | 20.6427 | 21.7797 | 23.0613 | 21.7878 |
| 060050 | 16.8012 | 18.2238 | 19.0832 | 18.0606 |
| 060052 | 12.5517 | 13.4210 | 14.8729 | 13.6675 |
| 060053 | 14.9399 | 15.9806 | 18.0232 | 16.2596 |
| 060054 | 19.3943 | 22.8985 | 20.4160 | 20.8278 |
| 060056 | 17.0509 | 18.2831 | 18.1263 | 17.9597 |
| 060057 | 23.3804 | 26.4046 | 25.4185 | 25.1123 |
| 060058 | 16.9064 | 15.4856 | 13.8539 | 15.6088 |
| 060060 | 14.8894 | 15.6469 | 15.6018 | 15.4330 |
| 060062 | 14.9354 | 17.2991 | 16.8640 | 16.3901 |
| 060063 | 15.0896 | * | * | 15.0896 |
| 060064 | 20.9349 | 21.2207 | 22.7797 | 21.6636 |
| 060065 | 24.3032 | 21.6305 | 24.5572 | 23.4210 |
| 060066 | 14.0672 | 16.3485 | 17.2537 | 15.7129 |
| 060068 | 19.6355 | * | * | 19.6355 |
| 060070 | 16.5821 | 17.3184 | 18.8960 | 17.6173 |
| 060071 | 16.9545 | 17.5987 | 17.4068 | 17.3254 |
| 060073 | 15.8385 | 15.7860 | 17.0846 | 16.2338 |
| 060075 | 22.8498 | 24.1550 | 23.8724 | 23.6295 |
| 060076 | 19.2861 | 24.8732 | 20.3265 | 21.3796 |
| 060085 | 13.4761 | 13.6277 | 14.3409 | 13.7955 |
| 060087 | 21.0277 | * | * | 21.0277 |
| 060088 | 16.6753 | 25.2786 | 13.7174 | 17.2655 |
| 060090 | 14.5096 | 22.2974 | 16.3760 | 17.6196 |
| 060096 | 23.1232 | 21.9623 | 20.8937 | 21.9261 |
| 060100 | 21.9983 | 23.5986 | 23.9305 | 23.4279 |
| 060103 | 22.3414 | 24.8151 | 23.5083 | 23.4950 |
| 060104 | 22.3008 | 22.2295 | 21.1820 | 21.8472 |
| 060107 | 13.6449 | 14.2698 | 21.9221 | 15.1674 |
| 070001 | 26.5150 | 26.0878 | 26.3596 | 26.3266 |
| 070002 | 25.4570 | 26.2801 | 26.1768 | 25.9680 |
| 070003 | 26.0894 | 25.6949 | 27.5200 | 26.4175 |
| 070004 | 23.2664 | 22.4871 | 24.2567 | 23.3158 |
| 070005 | 25.5739 | 26.6483 | 26.9151 | 26.3676 |
| 070006 | 28.7139 | 27.5674 | 28.6413 | 28.3103 |
| 070007 | 27.1867 | 26.9505 | 26.3313 | 26.8152 |
| 070008 | 26.0269 | 23.0227 | 24.2971 | 24.3585 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 070009 | 23.4686 | 24.6201 | 24.1871 | 24.0886 |
| 070010 | 25.9375 | 26.2354 | 29.2194 | 27.0543 |
| 070011 | 23.9603 | 23.3638 | 23.0883 | 23.4486 |
| 070012 | 25.1022 | 23.0321 | 28.8067 | 25.3536 |
| 070015 | 25.3317 | 23.8240 | 28.1204 | 25.7263 |
| 070016 | 26.3005 | 24.9148 | 24.4633 | 25.2035 |
| 070017 | 24.8038 | 26.2923 | 26.0424 | 25.7039 |
| 070018 | 28.8776 | 28.0689 | 30.6864 | 29.1923 |
| 070019 | 24.7025 | 25.7283 | 24.9249 | 25.1145 |
| 070020 | 23.7227 | 23.9987 | 25.9964 | 24.5532 |
| 070021 | 26.5173 | 25.2978 | 26.3043 | 26.0246 |
| 070022 | 25.0845 | 26.5691 | 26.9111 | 26.1557 |
| 070024 | 25.1491 | 25.2983 | 24.8948 | 25.1081 |
| 070025 | 25.4055 | 25.1315 | 25.4345 | 25.3241 |
| 070026 | 18.7892 | * | * | 18.7892 |
| 070027 | 23.6381 | 23.6412 | 26.8450 | 24.6648 |
| 070028 | 24.6913 | 24.6788 | 25.7492 | 25.0300 |
| 070029 | 22.7507 | 22.0080 | 23.9682 | 22.8885 |
| 070030 | 24.9676 | 28.9117 | 22.1578 | 25.5338 |
| 070031 | 21.6565 | 23.4419 | 24.1198 | 23.0342 |
| 070033 | 28.8099 | 30.4214 | 31.4736 | 30.2068 |
| 070034 | 29.1220 | 28.9200 | 29.4916 | 29.1706 |
| 070035 | 23.0574 | 23.0869 | 24.1423 | 23.4347 |
| 070036 | 28.9463 | 28.8400 | 29.9470 | 29.2263 |
| 070039 | 21.7791 | 22.9032 | 22.3356 | 22.3067 |
| 080001 | 25.2849 | 25.4836 | 24.8833 | 25.2209 |
| 080002 | 15.5984 | 19.6011 | 20.1965 | 18.4286 |
| 080003 | 22.3957 | 22.1856 | 23.1275 | 22.5300 |
| 080004 | 19.7725 | 21.9391 | 22.9706 | 21.5842 |
| 080005 | 14.4289 | * | * | 14.4289 |
| 080006 | 22.2632 | 20.0792 | 22.6671 | 21.6173 |
| 080007 | 20.3833 | 19.6213 | 21.3746 | 20.4985 |
| 090001 | 25.8921 | 21.7526 | 21.5751 | 23.1400 |
| 090002 | 19.6997 | 19.4191 | 21.5726 | 20.1912 |
| 090003 | 28.6092 | 22.1090 | 23.1268 | 24.5792 |
| 090004 | 24.4267 | 24.3367 | 25.5054 | 24.7042 |
| 090005 | 24.8766 | 23.8620 | 26.3074 | 24.9846 |
| 090006 | 20.0816 | 20.8675 | 22.0957 | 21.0167 |
| 090007 | 21.6551 | 22.1973 | 29.2840 | 24.7855 |
| 090008 | 21.5972 | 20.2166 | 25.2708 | 22.3042 |
| 090010 | 15.8676 | 24.1287 | 23.6616 | 20.2595 |
| 090011 | 27.3741 | 27.4781 | 26.6349 | 27.1495 |
| 100001 | 17.6948 | 19.5796 | 20.2157 | 19.1458 |
| 100002 | 21.3243 | 20.7136 | 21.0222 | 21.0141 |
| 100004 | 15.2465 | 14.6283 | 15.4149 | 15.0845 |
| 100006 | 20.6302 | 20.1133 | 21.2293 | 20.6802 |
| 100007 | 21.7217 | 21.7242 | 22.1590 | 21.8790 |
| 100008 | 20.7232 | 20.4980 | 20.8381 | 20.6876 |
| 100009 | 24.2947 | 22.6419 | 22.1741 | 22.9648 |
| 100010 | 21.9101 | 21.9078 | 23.0637 | 22.2904 |
| 100012 | 18.5169 | 19.6177 | 20.4659 | 19.5030 |
| 100014 | 19.8352 | 19.8023 | 19.5770 | 19.7276 |
| 100015 | 18.2394 | 18.4779 | 18.0654 | 18.2696 |
| 100017 | 17.7739 | 19.0608 | 19.8655 | 18.9086 |
| 100018 | 20.8392 | 21.0332 | 21.6388 | 21.1816 |
| 100019 | 19.8134 | 22.6152 | 23.5462 | 21.9719 |
| 100020 | 26.1783 | 21.3848 | 20.7816 | 22.5004 |
| 100022 | 25.8853 | 26.4094 | 26.5695 | 26.2778 |
| 100023 | 21.1068 | 19.9739 | 19.1787 | 20.0604 |
| 100024 | 20.7760 | 21.8791 | 22.1332 | 21.6047 |
| 100025 | 19.1219 | 18.7774 | 19.4529 | 19.1169 |
| 100026 | 20.7591 | 20.5641 | 20.9461 | 20.7639 |
| 100027 | 12.9410 | 19.1481 | 14.7916 | 15.3484 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 100028 | 19.7491 | 19.3757 | 19.3371 | 19.4791 |
| 100029 | 19.1768 | 20.8745 | 20.8950 | 20.2753 |
| 100030 | 18.8229 | 22.8204 | 20.5952 | 20.6758 |
| 100032 | 19.3165 | 19.8127 | 19.7451 | 19.6185 |
| 100034 | 18.2314 | 17.8743 | 19.5282 | 18.5138 |
| 100035 | 19.5842 | 20.1540 | 23.8117 | 21.2289 |
| 100038 | 24.7851 | 23.3578 | 24.5864 | 24.2183 |
| 100039 | 20.2529 | 21.5297 | 21.7861 | 21.1854 |
| 100040 | 18.6417 | 19.0449 | 18.6321 | 18.7662 |
| 100043 | 17.5215 | 18.7993 | 18.8206 | 18.3605 |
| 100044 | 21.1370 | 21.4764 | 22.7236 | 21.7975 |
| 100045 | 20.7688 | 20.9216 | 21.0228 | 20.9056 |
| 100046 | 21.2094 | 21.6207 | 21.3028 | 21.3728 |
| 100047 | 18.8677 | 20.0114 | 20.6068 | 19.8263 |
| 100048 | 13.5021 | 15.0584 | 15.7790 | 14.8232 |
| 100049 | 18.5598 | 18.8535 | 19.1025 | 18.8421 |
| 100050 | 16.6058 | 17.2377 | 17.9039 | 17.2452 |
| 100051 | 18.8377 | 23.1273 | 17.9453 | 19.6449 |
| 100052 | 16.1855 | 17.9537 | 18.1780 | 17.4312 |
| 100053 | 18.7103 | 20.1724 | 19.6800 | 19.5213 |
| 100054 | 18.1853 | 23.5491 | 21.1518 | 20.9367 |
| 100055 | 17.6226 | 18.0547 | 18.8760 | 18.1971 |
| 100056 | 23.6545 | 25.7863 | 21.8506 | 23.8349 |
| 100057 | 18.7489 | 19.9712 | 19.5319 | 19.4242 |
| 100060 | 22.3904 | 23.2561 | 23.5997 | 23.0802 |
| 100061 | 21.7923 | 22.1133 | 22.9176 | 22.2483 |
| 100062 | 17.9575 | 19.4370 | 21.4424 | 19.6570 |
| 100063 | 16.2324 | 19.2629 | 18.4642 | 17.9066 |
| 100067 | 17.3950 | 18.0877 | 18.4851 | 17.9682 |
| 100068 | 18.6480 | 19.9305 | 19.8308 | 19.4718 |
| 100069 | 16.1393 | 16.8271 | 17.3666 | 16.7757 |
| 100070 | 20.3358 | 18.7408 | 20.0381 | 19.6563 |
| 100071 | 16.4756 | 17.5451 | 17.7234 | 17.2640 |
| 100072 | 19.2223 | 21.0225 | 20.5968 | 20.3580 |
| 100073 | 18.1554 | 21.1898 | 22.2812 | 20.4948 |
| 100075 | 18.0548 | 18.3688 | 19.4480 | 18.6211 |
| 100076 | 16.2469 | 17.8733 | 17.8612 | 17.3644 |
| 100077 | 19.6214 | 22.3438 | 19.0640 | 20.3179 |
| 100078 | 18.2791 | 18.4499 | 19.2891 | 18.6609 |
| 100080 | 21.1603 | 22.1966 | 22.7153 | 22.0462 |
| 100081 | 13.9564 | 14.8313 | 15.4253 | 14.7661 |
| 100082 | 19.8033 | 18.8998 | * | 19.3432 |
| 100084 | 20.4002 | 22.3674 | 22.7009 | 21.8810 |
| 100085 | 21.0802 | 22.1231 | * | 21.5986 |
| 100086 | 21.1625 | 21.6997 | 23.3718 | 22.0734 |
| 100087 | 23.1162 | 23.6090 | 23.6562 | 23.4609 |
| 100088 | 20.0571 | 20.3693 | 20.5566 | 20.3435 |
| 100090 | 17.8768 | 19.1479 | 19.7695 | 18.9939 |
| 100092 | 18.1953 | 17.9216 | 20.1760 | 18.7907 |
| 100093 | 16.6310 | 16.5128 | 16.8422 | 16.6633 |
| 100098 | 19.0319 | 19.2427 | 20.8315 | 19.7124 |
| 100099 | 15.2983 | 15.7823 | 15.7591 | 15.6112 |
| 100102 | 19.3330 | 18.9701 | 19.7673 | 19.3542 |
| 100103 | 18.1019 | 17.2364 | 18.7844 | 18.0201 |
| 100105 | 21.5028 | 21.6604 | 21.8268 | 21.6611 |
| 100106 | 19.3113 | 17.2527 | 17.4958 | 17.9164 |
| 100107 | 18.0142 | 20.1281 | 20.0719 | 19.4041 |
| 100108 | 11.4692 | 19.9593 | 20.1125 | 16.4375 |
| 100109 | 22.1715 | 20.8440 | 20.8370 | 21.2360 |
| 100110 | 19.6439 | 20.8995 | 20.1853 | 20.2509 |
| 100112 | 9.7706 | 25.2570 | 15.2128 | 15.6728 |
| 100113 | 22.2584 | 23.2020 | 21.3489 | 22.1642 |
| 100114 | 23.4501 | 21.6262 | 22.8178 | 22.5825 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 100117 | 18.8619 | 20.7624 | 20.6962 | 20.1889 |
| 100118 | 19.7608 | 22.8702 | 20.7323 | 21.1427 |
| 100121 | 19.3435 | * | 18.5842 | 18.9363 |
| 100122 | 18.0551 | 19.8783 | 19.2643 | 19.0686 |
| 100124 | 19.0527 | 17.0713 | 20.4022 | 18.8192 |
| 100125 | 17.3358 | 18.9535 | 19.6097 | 18.6719 |
| 100126 | 18.0943 | 19.5413 | 19.3103 | 18.9490 |
| 100127 | 19.8727 | 19.9860 | 19.2122 | 19.6859 |
| 100128 | 21.3653 | 20.1536 | 22.8826 | 21.4045 |
| 100129 | 18.5723 | 19.1936 | * | 18.8646 |
| 100130 | 19.1052 | 18.6751 | 20.0947 | 19.3019 |
| 100131 | 22.1680 | 23.4373 | 23.1622 | 22.9338 |
| 100132 | 16.8978 | 18.1167 | 18.7863 | 17.9218 |
| 100134 | 13.4711 | 15.1764 | 15.9733 | 14.8260 |
| 100135 | 17.4785 | 18.8253 | 19.1865 | 18.5050 |
| 100137 | 19.0464 | 18.6955 | 19.5562 | 19.1372 |
| 100138 | 11.0135 | 17.1373 | 14.9539 | 13.7935 |
| 100139 | 15.6444 | 15.6514 | 15.2532 | 15.5227 |
| 100140 | 17.3518 | 17.1389 | 19.0584 | 17.8826 |
| 100142 | 18.6812 | 19.6815 | 18.4113 | 18.9199 |
| 100144 | 15.0197 | 12.2877 | * | 13.4059 |
| 100145 | 19.1143 | * | * | 19.1143 |
| 100146 | 17.8692 | 18.1267 | 21.3359 | 19.1001 |
| 100147 | 14.6751 | 14.6616 | 15.2348 | 14.8665 |
| 100150 | 21.0224 | 21.2807 | 21.5057 | 21.2659 |
| 100151 | 19.3990 | 21.6087 | 23.8489 | 21.6478 |
| 100154 | 19.8485 | 20.0015 | 20.4068 | 20.1020 |
| 100156 | 17.1335 | 19.4980 | 18.4779 | 18.3856 |
| 100157 | 21.0324 | 22.6744 | 22.6195 | 22.1032 |
| 100159 | 16.3778 | 10.2793 | 10.7818 | 11.9429 |
| 100160 | 21.6339 | 20.5581 | 23.3121 | 21.8278 |
| 100161 | 21.5025 | 22.2994 | 22.3053 | 22.0508 |
| 100162 | 19.8748 | 20.1411 | 20.3110 | 20.1117 |
| 100165 | 18.5739 | 19.0388 | 22.6622 | 20.3299 |
| 100166 | 20.4228 | 20.0250 | 21.2309 | 20.5491 |
| 100167 | 21.8138 | 23.4075 | 23.2969 | 22.8605 |
| 100168 | 20.1260 | 20.1994 | 20.3167 | 20.2165 |
| 100169 | 20.7778 | 20.9506 | 20.3017 | 20.6703 |
| 100170 | 15.1167 | 18.5088 | 19.3005 | 17.5325 |
| 100172 | 15.1848 | 14.3446 | 14.8826 | 14.8099 |
| 100173 | 17.3416 | 18.5662 | 17.1337 | 17.6572 |
| 100174 | 20.5125 | 26.1826 | 21.9807 | 22.2819 |
| 100175 | 17.8237 | 18.1692 | 20.5442 | 19.0035 |
| 100176 | 24.6978 | 22.8604 | 24.3089 | 23.9493 |
| 100177 | 22.0034 | 24.4296 | 24.4284 | 23.5639 |
| 100179 | 20.9053 | 22.3015 | 23.0849 | 22.0467 |
| 100180 | 18.4754 | 20.2130 | 21.5388 | 20.0049 |
| 100181 | 24.5704 | 23.0800 | 18.9510 | 21.8206 |
| 100183 | 20.8579 | 24.6121 | 23.0654 | 22.6623 |
| 100187 | 20.6938 | 20.2533 | 20.8535 | 20.6013 |
| 100189 | 21.0102 | 21.3147 | 26.5962 | 23.0255 |
| 100191 | 18.4692 | 19.9879 | 21.0647 | 19.7731 |
| 100199 | 23.3713 | 21.7193 | * | 22.5030 |
| 100200 | 22.2575 | 22.4579 | 23.8729 | 22.8861 |
| 100203 | 18.8628 | * | * | 18.8628 |
| 100204 | 20.2049 | 20.8995 | 20.2193 | 20.4418 |
| 100206 | 20.3511 | 19.5710 | 20.1171 | 20.0138 |
| 100207 | 15.9173 | * | * | 15.9173 |
| 100208 | 20.8337 | 21.2117 | 20.7029 | 20.9220 |
| 100209 | 19.7329 | 22.4577 | 23.3903 | 21.8570 |
| 100210 | 19.1799 | 21.3575 | 21.8545 | 20.7662 |
| 100211 | 25.5277 | 20.6427 | 20.7516 | 21.9172 |
| 100212 | 25.3441 | 21.1187 | 21.1263 | 22.2176 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 100213 | 19.1238 | 20.6558 | 21.1818 | 20.2975 |
| 100217 | 19.8700 | 20.5909 | 22.7335 | 21.0211 |
| 100220 | 19.9121 | 21.2796 | 21.8246 | 20.9627 |
| 100221 | 22.2517 | 17.3965 | 21.2321 | 20.0812 |
| 100222 | 22.1958 | * | * | 22.1958 |
| 100223 | 18.7580 | 20.6302 | 20.2233 | 19.8755 |
| 100224 | 24.7023 | 20.0251 | 21.8628 | 21.8826 |
| 100225 | 20.6404 | 20.6802 | 21.5059 | 20.9335 |
| 100226 | 24.8641 | 20.6858 | 21.8808 | 22.2342 |
| 100228 | 23.6986 | 21.3168 | 20.8810 | 21.8300 |
| 100229 | 18.2070 | 19.6908 | 18.2350 | 18.7682 |
| 100230 | 20.6018 | 20.5051 | 22.5650 | 21.2357 |
| 100231 | 17.4002 | 17.9226 | 18.7526 | 18.0268 |
| 100232 | 17.3171 | 19.3491 | 19.8002 | 18.8267 |
| 100234 | 21.5763 | 20.9104 | 21.6360 | 21.3290 |
| 100235 | 17.6648 | 17.1622 | * | 17.4262 |
| 100236 | 21.8111 | 20.3766 | 20.6942 | 20.8937 |
| 100237 | 22.9344 | 22.0865 | 23.2408 | 22.7368 |
| 100238 | 17.6310 | 19.6367 | 20.8252 | 19.4032 |
| 100239 | 19.7605 | 21.3193 | 19.4481 | 20.1474 |
| 100240 | 17.9339 | 20.4340 | 21.0606 | 19.8014 |
| 100241 | 13.8344 | 14.7224 | 17.1063 | 15.0865 |
| 100242 | 17.1154 | 17.9260 | 18.6938 | 17.9097 |
| 100243 | 20.3838 | 21.2644 | 20.8041 | 20.8228 |
| 100244 | 17.4124 | 18.6227 | 20.5352 | 18.9148 |
| 100246 | 21.2160 | 19.6376 | 21.9247 | 20.8876 |
| 100248 | 21.5399 | 20.7007 | 21.2988 | 21.1681 |
| 100249 | 19.0243 | 19.2808 | 18.1397 | 18.8067 |
| 100252 | 17.8726 | 17.7778 | 19.8079 | 18.4729 |
| 100253 | 20.6014 | 21.3232 | 22.4778 | 21.5023 |
| 100254 | 20.9080 | 19.6598 | 19.5523 | 19.9896 |
| 100255 | 21.0224 | 25.2119 | 21.0284 | 22.2338 |
| 100256 | 23.5640 | 20.9356 | 21.2786 | 21.7690 |
| 100258 | 21.8764 | 21.3501 | 20.0300 | 21.0257 |
| 100259 | 19.8600 | 20.3815 | 21.1160 | 20.4723 |
| 100260 | 21.2224 | 21.0506 | 24.9183 | 22.3504 |
| 100262 | 19.5874 | 20.0433 | 21.0927 | 20.2558 |
| 100263 | 16.9012 | * | * | 16.9012 |
| 100264 | 17.6085 | 19.1556 | 19.9491 | 18.8967 |
| 100265 | 19.8571 | 18.8301 | 18.2291 | 18.8491 |
| 100266 | 17.7319 | 18.2993 | 19.3623 | 18.4763 |
| 100267 | 17.0986 | 20.1141 | 21.7430 | 19.6266 |
| 100268 | 23.5863 | 23.9249 | 24.0538 | 23.8633 |
| 100269 | 21.2047 | 21.6724 | 22.5114 | 21.8200 |
| 100270 | 19.8576 | 15.1462 | 16.7148 | 17.2012 |
| 100271 | 19.9208 | 20.4824 | 20.8695 | 20.4494 |
| 100275 | 21.3273 | 20.9188 | 21.4904 | 21.2374 |
| 100276 | 21.9797 | 22.3646 | 24.1022 | 22.8308 |
| 100277 | 16.1410 | 16.6255 | 19.7241 | 17.0041 |
| 100279 | 23.0213 | 22.9095 | 22.5879 | 22.8402 |
| 100280 | 16.5851 | 17.3676 | 18.1972 | 17.4129 |
| 100281 | 22.0202 | 22.4392 | 23.0142 | 22.5262 |
| 100282 | 19.7717 | 19.1978 | 18.4884 | 19.1653 |
| 100284 | * | * | 18.9448 | 18.9448 |
| 110001 | 18.0571 | 19.1971 | 20.1150 | 19.1086 |
| 110002 | 17.3674 | 17.1406 | 19.5158 | 18.0122 |
| 110003 | 16.9099 | 18.1168 | 17.1450 | 17.3940 |
| 110004 | 18.9468 | 19.5591 | 19.7733 | 19.4194 |
| 110005 | 19.2639 | 17.7348 | 22.4568 | 20.0888 |
| 110006 | 20.1273 | 20.7820 | 21.0601 | 20.6571 |
| 110007 | 23.4976 | 21.9505 | 25.2523 | 23.5682 |
| 110008 | 18.2642 | 22.0081 | 18.5265 | 19.5622 |
| 110009 | 14.8218 | 16.3069 | 17.4306 | 16.2843 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 110010 | 24.5493 | 23.3213 | 23.9104 | 23.9180 |
| 110011 | 18.2846 | 18.6144 | 18.9823 | 18.6368 |
| 110013 | 16.0264 | 16.2811 | 18.9160 | 17.1183 |
| 110014 | 16.1168 | 16.0658 | 18.1787 | 16.7192 |
| 110015 | 19.4769 | 21.2146 | 20.9926 | 20.5614 |
| 110016 | 15.2967 | 22.5321 | 14.2398 | 16.6540 |
| 110017 | 10.5399 | 13.1960 | 22.2537 | 15.3899 |
| 110018 | 21.0415 | 19.6064 | 22.1480 | 20.9298 |
| 110020 | 18.5251 | 18.3147 | 19.4617 | 18.7736 |
| 110023 | 18.6460 | 21.1994 | 22.0546 | 20.5885 |
| 110024 | 19.7923 | 20.7297 | 20.7345 | 20.4144 |
| 110025 | 18.6463 | 19.5749 | 20.4232 | 19.5033 |
| 110026 | 16.1414 | 17.2977 | 16.2484 | 16.5517 |
| 110027 | 14.6834 | 16.0642 | 14.7081 | 15.1696 |
| 110028 | 19.8894 | 20.1547 | 29.1670 | 22.3800 |
| 110029 | 20.0507 | 20.2906 | 21.2150 | 20.5454 |
| 110030 | 17.6785 | 18.8105 | 19.6412 | 18.7203 |
| 110031 | 21.5794 | 19.9482 | 20.0553 | 20.4598 |
| 110032 | 16.1859 | 15.7349 | 18.2014 | 16.6413 |
| 110033 | 21.4143 | 22.1879 | 25.6335 | 22.9577 |
| 110034 | 18.1882 | 19.6055 | 19.5554 | 19.0987 |
| 110035 | 21.1670 | 19.3795 | 22.7950 | 21.1658 |
| 110036 | 24.4181 | 22.2498 | 20.7284 | 22.3301 |
| 110038 | 16.3750 | 17.7060 | 17.7396 | 17.2680 |
| 110039 | 20.7710 | 20.6011 | 20.4998 | 20.6248 |
| 110040 | 16.4043 | 17.0743 | 16.8083 | 16.7529 |
| 110041 | 16.6927 | 18.8035 | 20.2755 | 18.6583 |
| 110042 | 20.6503 | 24.0153 | 25.2331 | 23.2575 |
| 110043 | 17.2175 | 20.1016 | 20.6150 | 19.2219 |
| 110044 | 19.5983 | 16.3624 | 17.2087 | 17.5794 |
| 110045 | 19.9445 | 20.2498 | 21.3049 | 20.4714 |
| 110046 | 19.2327 | 19.7377 | 21.4905 | 20.1167 |
| 110048 | 15.6463 | 16.3148 | 15.6113 | 15.8483 |
| 110049 | 14.2135 | 16.1817 | 16.8639 | 15.7669 |
| 110050 | 18.7516 | 20.7619 | 19.2291 | 19.5578 |
| 110051 | 15.7475 | 17.0070 | 17.2292 | 16.6496 |
| 110052 | 15.0562 | * | * | 15.0562 |
| 110054 | 19.2712 | * | 20.0549 | 19.6625 |
| 110056 | 16.4960 | 15.6202 | 17.7959 | 16.7305 |
| 110059 | 17.6984 | 16.6678 | 16.7990 | 17.0253 |
| 110061 | 13.7196 | 15.0367 | 16.3557 | 15.0889 |
| 110062 | 12.2107 | 18.8019 | 17.0053 | 16.1264 |
| 110063 | 17.9743 | 16.9612 | 18.5071 | 17.7965 |
| 110064 | 18.3368 | 18.9515 | 19.1203 | 18.8163 |
| 110065 | 13.3245 | 15.6771 | 16.3546 | 15.1604 |
| 110066 | 20.6502 | 21.0207 | 22.4189 | 21.3274 |
| 110069 | 18.3519 | 19.3109 | 20.9575 | 19.5384 |
| 110070 | 18.2264 | 21.0227 | 17.3438 | 18.7743 |
| 110071 | 14.8902 | 14.5984 | 18.8321 | 15.8863 |
| 110072 | 12.4303 | 12.7877 | 12.7625 | 12.6652 |
| 110073 | 15.1377 | 15.4261 | 16.4658 | 15.6663 |
| 110074 | 20.7572 | 21.3945 | 22.3769 | 21.5169 |
| 110075 | 17.0067 | 18.5199 | 20.1757 | 18.5793 |
| 110076 | 20.4430 | 21.2867 | 21.9798 | 21.2384 |
| 110078 | 24.7069 | 22.3718 | 24.0893 | 23.6954 |
| 110079 | 20.1385 | 21.0593 | 22.1070 | 21.0913 |
| 110080 | 23.4336 | 18.4768 | 19.1839 | 20.1449 |
| 110082 | 22.0078 | 23.8768 | 24.3140 | 23.4175 |
| 110083 | 21.3578 | 23.1219 | 23.1463 | 22.5746 |
| 110086 | 14.9756 | 18.2815 | 16.6374 | 16.5417 |
| 110087 | 20.5420 | 21.7773 | 22.7069 | 21.7189 |
| 110089 | 18.5761 | 18.5587 | 19.3855 | 18.8318 |
| 110091 | 21.3789 | 19.5114 | 21.5328 | 20.7784 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 110092 | 15.0890 | 17.3479 | 16.9725 | 16.4433 |
| 110093 | 14.8049 | * | 16.9827 | 15.7486 |
| 110094 | 13.8658 | 14.5641 | 16.9503 | 15.0650 |
| 110095 | 15.9478 | 16.4670 | 17.1195 | 16.5075 |
| 110096 | 16.3202 | 16.8541 | 17.4157 | 16.8647 |
| 110097 | 15.6164 | 15.5811 | 17.4558 | 16.1121 |
| 110098 | 14.0067 | 16.3532 | 16.0597 | 15.3226 |
| 110100 | 20.3764 | 18.6978 | 19.0764 | 19.3213 |
| 110101 | 11.7278 | 10.8187 | 18.8491 | 12.7872 |
| 110103 | 11.9352 | 13.6842 | 21.1837 | 14.0859 |
| 110104 | 15.3184 | 15.7781 | 15.9431 | 15.6829 |
| 110105 | 16.5196 | 16.8909 | 16.7775 | 16.7306 |
| 110107 | 17.3921 | 19.3609 | 19.3897 | 18.7335 |
| 110108 | 15.1401 | 19.7938 | 25.2161 | 19.3940 |
| 110109 | 16.3703 | 15.9359 | 16.4031 | 16.2270 |
| 110111 | 17.3215 | 18.5108 | 18.3951 | 18.0800 |
| 110112 | 19.1288 | 19.0619 | 19.8986 | 19.3117 |
| 110113 | 15.1896 | 16.8179 | 15.9532 | 15.9721 |
| 110114 | 15.1303 | 14.6888 | 16.4812 | 15.4358 |
| 110115 | 24.8332 | 43.9427 | 22.5049 | 27.8401 |
| 110118 | 15.3992 | 20.5368 | 19.7509 | 18.5122 |
| 110120 | 15.1878 | 15.2589 | 17.7452 | 15.9897 |
| 110121 | 15.5792 | 16.2711 | 19.3643 | 17.0685 |
| 110122 | 18.8497 | 21.1385 | 21.1469 | 20.3688 |
| 110124 | 17.1306 | 17.5732 | 18.3366 | 17.6460 |
| 110125 | 17.3254 | 19.1311 | 18.0090 | 18.1411 |
| 110127 | 13.7612 | 14.6143 | 20.3765 | 16.2641 |
| 110128 | 18.9705 | 18.1845 | 18.0835 | 18.4293 |
| 110129 | 18.1208 | 18.9388 | 19.0001 | 18.6851 |
| 110130 | 13.0779 | 16.0580 | 14.6011 | 14.6559 |
| 110132 | 15.0231 | 16.0419 | 16.3943 | 15.8158 |
| 110134 | 11.5583 | 12.5723 | 19.8639 | 15.1252 |
| 110135 | 17.0834 | 17.4380 | 17.3504 | 17.2967 |
| 110136 | 16.1680 | 18.0639 | 16.9629 | 16.8702 |
| 110140 | 17.8806 | 17.8870 | 17.7915 | 17.8571 |
| 110141 | 12.5051 | 13.2501 | 14.4935 | 13.4024 |
| 110142 | 12.3029 | 14.6144 | 13.9525 | 13.5947 |
| 110143 | 21.6898 | 20.1603 | 22.5926 | 21.5352 |
| 110144 | 17.9766 | 16.8685 | 17.5112 | 17.4397 |
| 110146 | 17.6068 | 16.1316 | 17.1835 | 16.9320 |
| 110149 | 22.2256 | 17.7535 | 32.1975 | 23.0615 |
| 110150 | 18.7724 | 20.2644 | 21.2909 | 20.0962 |
| 110152 | 14.7674 | 15.3996 | 15.1324 | 15.1011 |
| 110153 | 18.6862 | 19.2744 | 20.5068 | 19.4781 |
| 110154 | 14.8067 | 14.9636 | 17.3761 | 15.6408 |
| 110155 | 17.1370 | 15.5306 | 16.5146 | 16.3434 |
| 110156 | 15.3422 | 14.7477 | 16.3876 | 15.4698 |
| 110161 | 20.8657 | 21.7153 | 22.2861 | 21.6563 |
| 110163 | 18.2016 | 20.4202 | 18.6637 | 19.0060 |
| 110164 | 19.4946 | 20.2074 | 21.2160 | 20.2947 |
| 110165 | 18.9974 | 21.2577 | 20.8030 | 20.3401 |
| 110166 | 19.8510 | 20.5882 | 20.5049 | 20.3148 |
| 110168 | 19.8178 | 20.6646 | 21.8058 | 20.8014 |
| 110169 | 18.7189 | 20.6385 | 22.6648 | 20.4216 |
| 110171 | 20.0874 | 23.7893 | 25.5296 | 22.6284 |
| 110172 | 25.4390 | 23.3730 | 23.6803 | 24.1715 |
| 110174 | 14.2978 | 13.7339 | 14.6199 | 14.1905 |
| 110176 | 22.3971 | * | * | 22.3971 |
| 110177 | 19.5888 | 20.7187 | 21.2796 | 20.5272 |
| 110178 | 16.8555 | 18.8306 | * | 17.8083 |
| 110179 | 20.5161 | 22.7841 | 22.0767 | 21.7231 |
| 110181 | 13.7195 | 14.0941 | 12.9798 | 13.6399 |
| 110183 | 21.1797 | 23.3826 | 22.5148 | 22.3473 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 110184 | 20.9465 | 22.1970 | 22.1920 | 21.7791 |
| 110185 | 16.2487 | 16.7246 | 17.7925 | 16.9013 |
| 110186 | 17.3398 | 17.4287 | 18.3178 | 17.6984 |
| 110187 | 21.4462 | 20.1154 | 19.8419 | 20.4516 |
| 110188 | 20.0548 | 24.8376 | 23.7032 | 22.6465 |
| 110189 | 18.8627 | 22.2715 | 20.8786 | 20.7023 |
| 110190 | 19.4318 | 18.5728 | 18.3649 | 18.7761 |
| 110191 | 19.1065 | 20.2033 | 21.4033 | 20.2583 |
| 110192 | 20.7660 | 21.4951 | 21.0486 | 21.1064 |
| 110193 | 18.7807 | 20.6380 | 20.7867 | 20.0518 |
| 110194 | 15.0937 | 15.1480 | 14.8115 | 15.0165 |
| 110195 | 10.5227 | 13.9135 | 12.7261 | 12.3146 |
| 110198 | 26.1898 | 24.1999 | 24.8646 | 25.0493 |
| 110200 | 17.2129 | 18.1862 | 17.7744 | 17.7301 |
| 110201 | 19.2438 | 20.4699 | 20.9497 | 20.2248 |
| 110203 | 20.2958 | 26.8148 | 22.7453 | 23.1944 |
| 110204 | 20.5728 | 19.7317 | 30.7342 | 21.7754 |
| 110205 | 26.1154 | 21.1435 | 21.3617 | 22.7145 |
| 110207 | 12.8710 | 12.9727 | 14.7154 | 13.5335 |
| 110208 | 14.8907 | 15.1742 | 15.6161 | 5.1789 |
| 110209 | 20.4640 | 17.9190 | 18.6404 | 18.9942 |
| 110211 | 21.8226 | 20.9372 | 26.9151 | 23.1427 |
| 110212 | 12.6583 | 11.8545 | 14.3790 | 12.8830 |
| 110213 | 13.1976 | 14.3651 | * | 13.7453 |
| 110215 | * | 20.1928 | 18.1539 | 19.0047 |
| 110216 | * | * | 27.1878 | 27.1878 |
| 120001 | 26.7134 | 27.9213 | 29.0427 | 27.8237 |
| 120002 | 24.3780 | 25.0744 | 25.2021 | 24.8896 |
| 120003 | 23.8452 | 25.9059 | 23.9115 | 24.5394 |
| 120004 | 24.0456 | 23.9208 | 24.8632 | 24.2413 |
| 120005 | 20.5380 | 23.3975 | 24.1662 | 22.6197 |
| 120006 | 23.7151 | 25.0895 | 25.8943 | 24.8700 |
| 120007 | 23.2684 | 22.7200 | 22.8772 | 22.9509 |
| 120009 | 19.0216 | 17.4693 | 16.4485 | 17.5600 |
| 120010 | 25.3976 | 25.1480 | 24.1923 | 24.8868 |
| 120011 | 33.5459 | 35.0582 | 37.2759 | 35.3313 |
| 120012 | 22.5219 | 23.1144 | 21.8507 | 22.5391 |
| 120014 | 24.0467 | 22.8866 | 24.1208 | 23.6739 |
| 120015 | 29.0747 | 32.9906 | 42.6465 | 33.1800 |
| 120016 | 29.4104 | 27.9127 | 45.1899 | 31.1230 |
| 120018 | 25.6088 | 24.5031 | 31.1879 | 26.2841 |
| 120019 | 21.9199 | 22.9341 | 25.5659 | 23.4285 |
| 120021 | 19.4236 | 23.4508 | 23.1839 | 21.8865 |
| 120022 | 17.9306 | 21.7868 | 19.2614 | 19.5032 |
| 120024 | 22.2846 | 29.4808 | 32.2514 | 26.8486 |
| 120025 | 19.0197 | 20.1065 | 50.6376 | 21.3455 |
| 120026 | 23.2237 | 26.0787 | 25.1314 | 24.7719 |
| 120027 | 24.5549 | 24.7255 | 24.4535 | 24.5737 |
| 120028 | 23.4873 | 27.5023 | 27.0897 | 25.8902 |
| 130001 | 24.9511 | 18.8471 | 17.6306 | 20.1752 |
| 130002 | 16.1853 | 16.6620 | 16.9867 | 16.6200 |
| 130003 | 19.9499 | 21.7313 | 22.3430 | 21.3583 |
| 130005 | 20.1678 | 20.7169 | 21.2386 | 20.7149 |
| 130006 | 18.8705 | 19.3392 | 20.4614 | 19.5797 |
| 130007 | 19.8442 | 20.8338 | 21.8107 | 20.8426 |
| 130008 | 12.9177 | 12.5506 | 13.6018 | 12.9892 |
| 130009 | 18.2958 | 19.1837 | 15.9701 | 17.7296 |
| 130010 | 21.4325 | 17.6795 | 17.5119 | 18.7875 |
| 130011 | 19.0816 | 20.5031 | 20.1147 | 19.9190 |
| 130012 | 22.6153 | 22.9813 | 24.9976 | 23.5891 |
| 130013 | 19.2170 | 17.4038 | 15.1129 | 17.1523 |
| 130014 | 17.9836 | 18.9769 | 19.2107 | 18.7286 |
| 130015 | 15.2662 | 15.7233 | 18.5913 | 16.3849 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 130016 | 16.9987 | 17.3942 | 19.0516 | 17.7864 |
| 130017 | 16.8822 | 17.1710 | 19.6875 | 17.7220 |
| 130018 | 17.9651 | 19.7368 | 19.8425 | 19.2288 |
| 130019 | 17.2317 | 18.6648 | 19.1711 | 18.3322 |
| 130021 | 12.2562 | 12.8588 | 15.6155 | 13.6528 |
| 130022 | 19.5040 | 16.5270 | 18.9127 | 18.2241 |
| 130024 | 18.3789 | 19.3634 | 19.0703 | 18.9600 |
| 130025 | 15.2691 | 17.5213 | 16.4627 | 16.4881 |
| 130026 | 20.5535 | 21.5934 | 21.8106 | 21.3093 |
| 130027 | 20.7044 | 21.4279 | 20.5344 | 20.8883 |
| 130028 | 18.2074 | 19.1093 | 20.9674 | 19.4388 |
| 130029 | 20.3153 | 18.4263 | 18.7694 | 19.1364 |
| 130030 | 18.3981 | 17.8440 | 17.5759 | 17.9347 |
| 130031 | 17.6458 | 16.2397 | 16.7766 | 16.8967 |
| 130034 | 18.8164 | 16.9873 | 18.9483 | 18.2785 |
| 130035 | 20.4708 | 19.3478 | 20.7770 | 20.1943 |
| 130036 | 13.7942 | 13.7933 | 13.6362 | 13.7373 |
| 130037 | 17.7374 | 18.8071 | 18.6856 | 18.3986 |
| 130043 | 16.0686 | 16.5102 | 16.7904 | 16.4511 |
| 130044 | 13.1816 | 17.8160 | 13.4513 | 14.6424 |
| 130045 | 16.4655 | 16.0990 | 19.0208 | 17.0869 |
| 130048 | 15.0924 | 16.0899 | 16.7900 | 15.9311 |
| 130049 | 20.3928 | 20.3129 | 22.4440 | 21.0760 |
| 130054 | 17.7802 | 17.2729 | 17.7085 | 17.5766 |
| 130056 | 15.6551 | 14.6862 | 20.9476 | 16.5492 |
| 130058 | 17.7462 | * | * | 17.7462 |
| 130060 | 20.8508 | 21.8662 | 22.7399 | 21.8288 |
| 130061 | 16.7839 | 15.4006 | 14.7394 | 15.6929 |
| 130062 | 15.1086 | 16.5672 | 19.8157 | 17.1915 |
| 130063 | * | 15.9441 | 18.8024 | 17.8420 |
| 140001 | 15.4448 | 16.3372 | 17.7990 | 16.4814 |
| 140002 | 19.2575 | 19.0248 | 19.9284 | 19.3999 |
| 140003 | 18.0001 | 21.2886 | 17.8595 | 18.9466 |
| 140004 | 17.5200 | 15.7042 | 17.4574 | 16.8965 |
| 140005 | 10.8718 | 11.6127 | 12.3002 | 11.5858 |
| 140007 | 22.4015 | 22.9799 | 23.8585 | 23.0838 |
| 140008 | 21.2844 | 21.6548 | 22.1111 | 21.6838 |
| 140010 | 25.2227 | 31.8207 | 28.5635 | 28.3677 |
| 140011 | 17.2856 | 17.8676 | 18.6164 | 17.9499 |
| 140012 | 19.4406 | 23.0653 | 21.4374 | 21.2652 |
| 140013 | 17.3488 | 18.3060 | 19.6722 | 18.4213 |
| 140014 | 20.7563 | 22.4737 | 21.4042 | 21.5054 |
| 140015 | 15.0232 | 16.6735 | 17.6805 | 16.4314 |
| 140016 | 12.5363 | 13.1278 | 14.4938 | 13.3972 |
| 140018 | 21.4147 | 22.3070 | 22.4132 | 22.0345 |
| 140019 | 15.3435 | 16.6548 | 16.4254 | 16.1654 |
| 140024 | 14.6674 | 16.8271 | 15.3782 | 15.5912 |
| 140025 | 16.9489 | 16.9462 | 18.5135 | 17.4713 |
| 140026 | 15.9557 | 16.6612 | 18.3220 | 16.9446 |
| 140027 | 17.5023 | 18.7553 | 19.2149 | 18.5013 |
| 140029 | 21.0358 | 22.8322 | 26.0833 | 23.2140 |
| 140030 | 22.4414 | 21.9475 | 23.1760 | 22.5308 |
| 140031 | 15.9442 | 19.5731 | 17.6067 | 17.6942 |
| 140032 | 17.3363 | 18.1058 | 19.0383 | 18.1645 |
| 140033 | 22.5583 | 24.1722 | 25.1639 | 23.9291 |
| 140034 | 19.1482 | 19.5278 | 19.8792 | 19.5183 |
| 140035 | 12.9963 | 15.2649 | 15.5040 | 14.5633 |
| 140036 | 17.0419 | 18.5771 | 19.1076 | 18.2935 |
| 140037 | 12.5012 | 13.0764 | 14.1083 | 13.2105 |
| 140038 | 17.6094 | 18.3035 | 18.4948 | 18.1352 |
| 140040 | 16.2462 | 19.9267 | 16.7450 | 17.5895 |
| 140041 | 17.2829 | 17.6582 | 18.5952 | 17.8248 |
| 140042 | 15.6092 | 15.4095 | 15.8892 | 15.6354 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 140043 | 18.9464 | 19.4683 | 20.1176 | 19.5022 |
| 140045 | 20.6541 | 15.5807 | 17.7799 | 17.9528 |
| 140046 | 16.4621 | 18.9763 | 18.6371 | 18.0097 |
| 140047 | 16.3298 | 17.1539 | 13.3610 | 15.4382 |
| 140048 | 20.5773 | 24.0913 | 23.9545 | 22.8943 |
| 140049 | 21.5937 | 28.4958 | 26.9483 | 25.7338 |
| 140051 | 20.8455 | 23.8264 | 24.0796 | 22.8956 |
| 140052 | 19.6045 | 19.6409 | 17.9571 | 19.0338 |
| 140053 | 17.8218 | 19.1892 | 19.9620 | 18.9702 |
| 140054 | 26.1497 | 22.1921 | 23.1576 | 23.7695 |
| 140055 | 14.8031 | 16.3404 | 14.3603 | 15.1391 |
| 140058 | 17.2716 | 17.4927 | 18.6861 | 17.8100 |
| 140059 | 15.3934 | 15.0195 | * | 15.1978 |
| 140061 | 15.9612 | 17.3012 | 18.2039 | 17.1185 |
| 140062 | 27.0912 | 28.0877 | 28.5304 | 27.9131 |
| 140063 | 22.3882 | 25.3641 | 29.1453 | 25.1919 |
| 140064 | 19.2549 | 19.1023 | 18.9379 | 19.0960 |
| 140065 | 23.1610 | 24.1128 | 25.3336 | 24.1516 |
| 140066 | 16.1759 | 17.3902 | 13.6491 | 15.5770 |
| 140067 | 18.4031 | 19.3267 | 19.5292 | 19.0846 |
| 140068 | 18.8739 | 19.9691 | 21.6188 | 20.0995 |
| 140069 | 16.1453 | 16.7544 | 17.3879 | 16.7949 |
| 140070 | 19.2995 | 22.9678 | 22.7153 | 21.2244 |
| 140074 | 19.0077 | 19.3504 | 21.6052 | 19.9120 |
| 140075 | 22.5083 | 21.6313 | 21.6434 | 21.9439 |
| 140077 | 16.6447 | 17.5305 | 17.3647 | 17.1709 |
| 140079 | 21.9205 | 23.3020 | 23.6928 | 22.9153 |
| 140080 | 20.9999 | 21.0739 | 22.1968 | 21.3875 |
| 140081 | 15.5103 | 16.2247 | 16.9808 | 16.1897 |
| 140082 | 22.6227 | 23.8960 | 29.7262 | 24.9037 |
| 140083 | 18.1349 | 19.3145 | 21.0330 | 19.4951 |
| 140084 | 20.0133 | 20.9709 | 22.3467 | 21.0939 |
| 140086 | 17.3717 | 18.3803 | 19.1613 | 18.3356 |
| 140087 | 18.3639 | 16.1009 | 17.1147 | 17.1839 |
| 140088 | 24.2568 | 25.2369 | 25.4176 | 24.9650 |
| 140089 | 17.2086 | 17.6366 | 18.3157 | 17.7164 |
| 140090 | 23.5888 | 26.4325 | 26.9364 | 25.3709 |
| 140091 | 20.7039 | 20.9018 | 21.9322 | 21.1441 |
| 140093 | 19.1469 | 18.2899 | 20.1528 | 19.1437 |
| 140094 | 20.6129 | 21.4709 | 21.9383 | 21.3227 |
| 140095 | 21.5376 | 24.0549 | 24.2859 | 23.1400 |
| 140097 | 16.8997 | 17.5081 | 21.1719 | 18.4160 |
| 140100 | 19.0588 | 21.3581 | 23.1399 | 21.1571 |
| 140101 | 26.0894 | 21.5473 | 21.4211 | 22.7744 |
| 140102 | 15.0777 | 17.1500 | 17.5729 | 16.5644 |
| 140103 | 17.8586 | 19.2783 | 18.1303 | 18.4145 |
| 140105 | 20.9068 | 22.6573 | 22.8944 | 22.1275 |
| 140107 | 12.7573 | 13.7533 | 11.8383 | 12.6800 |
| 140108 | 28.6028 | 25.4742 | 26.9971 | 26.9964 |
| 140109 | 15.4724 | 15.7465 | 14.5498 | 15.2467 |
| 140110 | 18.8112 | 19.1822 | 19.2888 | 19.0728 |
| 140112 | 16.2399 | 17.6856 | 17.6974 | 17.1885 |
| 140113 | 17.9151 | 19.0592 | 19.5584 | 18.8265 |
| 140114 | 20.4808 | 21.1639 | 21.0976 | 20.9149 |
| 140115 | 20.0939 | 21.1926 | 21.0433 | 20.7564 |
| 140116 | 21.8290 | 23.1177 | 23.8993 | 22.9520 |
| 140117 | 19.6445 | 21.5671 | 21.4876 | 20.8750 |
| 140118 | 23.0797 | 23.5952 | 24.3260 | 23.6559 |
| 140119 | 26.5042 | 29.1419 | 27.9145 | 27.8197 |
| 140120 | 14.8375 | 18.0743 | 17.9716 | 16.8874 |
| 140121 | 9.5268 | 16.0397 | 16.6993 | 13.2257 |
| 140122 | 23.7473 | 24.6470 | 26.1270 | 24.8110 |
| 140124 | 26.9706 | 27.1906 | 27.9813 | 27.3549 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 140125 | 17.0974 | 17.6759 | 16.9516 | 17.2453 |
| 140127 | 19.4259 | 19.8973 | 20.0489 | 19.7765 |
| 140128 | 17.6751 | 19.4955 | 23.1327 | 20.0664 |
| 140129 | 15.2494 | 18.2639 | 20.2868 | 17.8627 |
| 140130 | 23.7682 | 22.2285 | 23.4298 | 23.1296 |
| 140132 | 23.0443 | 23.5475 | 23.3054 | 23.2992 |
| 140133 | 19.9083 | 21.4090 | 21.4166 | 20.8761 |
| 140135 | 17.6927 | 17.8100 | 17.3985 | 17.6268 |
| 140137 | 16.5141 | 16.8969 | 18.6330 | 17.3470 |
| 140138 | 14.5877 | 16.7420 | 17.1968 | 16.2121 |
| 140139 | 16.5794 | 14.0619 | 11.0397 | 13.5138 |
| 140140 | 15.2985 | 17.8243 | 17.6845 | 16.9747 |
| 140141 | 15.1782 | 17.5204 | 19.1097 | 17.2133 |
| 140143 | 18.7616 | 19.1862 | 19.0810 | 19.0186 |
| 140144 | 19.7913 | 21.3245 | 22.2864 | 21.1022 |
| 140145 | 16.6111 | 17.5471 | 18.1788 | 17.4556 |
| 140146 | 23.7400 | 21.9573 | 19.9704 | 21.7285 |
| 140147 | 24.8191 | 16.1336 | 18.8049 | 19.2135 |
| 140148 | 19.5026 | 18.6598 | 18.7730 | 18.9637 |
| 140150 | 27.8485 | 27.3378 | 24.7976 | 26.6536 |
| 140151 | 19.3016 | 21.3896 | 20.0310 | 20.2086 |
| 140152 | 22.4270 | 24.6333 | 25.6011 | 24.1041 |
| 140155 | 17.3131 | 19.9738 | 20.2778 | 19.1103 |
| 140158 | 22.2666 | 22.7639 | 22.7988 | 22.5990 |
| 140160 | 17.8822 | 17.7691 | 17.7921 | 17.8132 |
| 140161 | 19.0448 | 20.0948 | 20.3799 | 19.8258 |
| 140162 | 18.4167 | 19.6464 | 20.3452 | 19.4479 |
| 140164 | 18.6120 | 18.7806 | 18.6589 | 18.6860 |
| 140165 | 15.4186 | 14.9156 | 14.7223 | 15.0080 |
| 140166 | 17.5434 | 17.5496 | 18.3833 | 17.8149 |
| 140167 | 16.5671 | 17.1479 | 17.6525 | 17.1325 |
| 140168 | 16.4638 | 16.6770 | 17.7453 | 16.9752 |
| 140170 | 14.1360 | 16.1621 | 16.4107 | 15.5211 |
| 140171 | 14.7316 | 14.1637 | 15.0237 | 14.6354 |
| 140172 | 20.7982 | 23.8431 | 23.6262 | 22.5610 |
| 140173 | 18.4788 | 15.1487 | 16.3924 | 16.7054 |
| 140174 | 19.9216 | 20.5339 | 35.9320 | 23.2157 |
| 140176 | 21.4129 | 23.2866 | 24.5338 | 23.0397 |
| 140177 | 18.1692 | 18.2648 | 15.0827 | 17.1204 |
| 140179 | 22.6989 | 21.1948 | 21.9859 | 21.9622 |
| 140180 | 23.2536 | 22.4548 | 22.7996 | 22.8262 |
| 140181 | 20.5461 | 20.8709 | 21.9864 | 21.1001 |
| 140182 | 20.7013 | 22.0170 | 28.9515 | 23.2649 |
| 140184 | 14.9763 | 17.8155 | 17.2401 | 16.6194 |
| 140185 | 17.3616 | 17.6514 | 18.2867 | 17.7696 |
| 140186 | 18.9878 | 22.7890 | 23.5034 | 21.7241 |
| 140187 | 17.6910 | 17.9201 | 18.3331 | 17.9863 |
| 140188 | 14.8373 | 15.2479 | 16.1907 | 15.4001 |
| 140189 | 19.0791 | 21.0616 | 20.6627 | 20.2758 |
| 140190 | 15.8770 | 16.3366 | 17.5263 | 16.5534 |
| 140191 | 24.7368 | 25.8835 | 25.2628 | 25.2833 |
| 140193 | 15.5196 | 15.8022 | 17.4057 | 16.2409 |
| 140197 | 17.9828 | 18.6394 | 19.3774 | 18.6752 |
| 140199 | 18.8333 | 18.3507 | 18.0450 | 18.4044 |
| 140200 | 21.6508 | 21.5220 | 21.7680 | 21.6496 |
| 140202 | 22.1800 | 22.1939 | 23.7955 | 22.7597 |
| 140203 | 20.7854 | 19.9194 | 21.0848 | 20.5915 |
| 140205 | 17.2369 | 17.4751 | 20.0784 | 18.0505 |
| 140206 | 20.5096 | 21.3295 | 22.5109 | 21.4570 |
| 140207 | 20.2048 | 21.9779 | 22.3905 | 21.3996 |
| 140208 | 23.9441 | 25.9900 | 26.2527 | 25.3856 |
| 140209 | 17.7889 | 18.1206 | 20.1557 | 18.6405 |
| 140210 | 12.6648 | 15.6899 | 14.8248 | 14.4319 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 140211 | 20.9615 | 21.8891 | 22.6265 | 21.8594 |
| 140213 | 26.2041 | 27.0645 | 24.9892 | 26.0871 |
| 140215 | 14.4544 | 15.9949 | 15.2893 | 15.2456 |
| 140217 | 23.3192 | 24.8229 | 25.7329 | 24.5914 |
| 140218 | 15.0750 | 14.9459 | 14.9851 | 15.0038 |
| 140220 | 16.7341 | 17.6370 | 17.8450 | 17.4280 |
| 140223 | 21.4725 | 24.9249 | 24.9017 | 23.6377 |
| 140224 | 22.9945 | 25.8668 | 32.8292 | 26.7133 |
| 140228 | 18.6731 | 19.6988 | 20.1688 | 19.5400 |
| 140230 | 16.5979 | 18.0918 | 18.2983 | 17.6740 |
| 140231 | 21.6062 | 23.9176 | 24.5019 | 23.4404 |
| 140233 | 18.3703 | 19.4542 | 21.2333 | 19.6539 |
| 140234 | 18.7156 | 18.9945 | * | 18.8552 |
| 140236 | 13.1341 | * | 12.9253 | 13.0112 |
| 140239 | 18.8785 | 18.8127 | 20.3745 | 19.3689 |
| 140240 | 24.2141 | 23.6860 | 24.6949 | 24.1989 |
| 140242 | 22.6679 | 24.5428 | 25.2317 | 24.1792 |
| 140245 | 15.5554 | 13.4839 | 14.2481 | 14.3597 |
| 140246 | 12.8238 | 13.4639 | 11.6267 | 12.5798 |
| 140250 | 23.4127 | 25.0876 | 23.6449 | 24.0578 |
| 140251 | 20.5813 | 21.4385 | 21.9435 | 21.3153 |
| 140252 | 24.4856 | 25.2246 | 25.0220 | 24.9139 |
| 140253 | 16.7356 | 18.5511 | 19.5858 | 18.2440 |
| 140258 | 21.1321 | 23.2973 | 25.3622 | 23.2691 |
| 140271 | 15.3606 | 15.5079 | 12.0079 | 14.1590 |
| 140275 | 17.9597 | 20.1699 | 23.8171 | 20.5857 |
| 140276 | 23.7163 | 26.6777 | 25.3134 | 25.2323 |
| 140280 | 18.8420 | 20.2360 | 18.8300 | 19.2649 |
| 140281 | 23.3433 | 24.0192 | 25.2719 | 24.2302 |
| 140285 | 14.7087 | 18.1181 | 18.5916 | 17.2227 |
| 140286 | 19.9500 | 20.3735 | 26.1290 | 22.0885 |
| 140288 | 21.8213 | 25.2327 | 24.4331 | 23.7989 |
| 140289 | 16.4542 | 17.1388 | 18.1747 | 17.3055 |
| 140290 | 21.2384 | 21.1784 | 22.8590 | 21.7763 |
| 140291 | 22.4352 | 25.0911 | 24.9537 | 24.1790 |
| 140292 | 22.7136 | 20.8560 | 21.9950 | 21.8371 |
| 140294 | 17.5226 | 17.7226 | 17.7301 | 17.6645 |
| 140297 | 21.4692 | * | * | 21.4692 |
| 140300 | 23.2560 | 25.3662 | 27.8436 | 25.5898 |
| 150001 | 21.6990 | 22.8109 | 24.0620 | 22.8643 |
| 150002 | 18.7568 | 19.3401 | 20.7651 | 19.6416 |
| 150003 | 19.3117 | 19.7661 | 20.8636 | 19.9824 |
| 150004 | 19.7020 | 20.3685 | 21.2449 | 20.4349 |
| 150005 | 18.9964 | 20.6260 | 21.6806 | 20.4380 |
| 150006 | 20.0433 | 20.8158 | 20.6523 | 20.5130 |
| 150007 | 19.5255 | 20.1826 | 20.6635 | 20.1487 |
| 150008 | 20.9684 | 21.4545 | 21.8457 | 21.4285 |
| 150009 | 18.2168 | 18.7073 | 19.0030 | 18.6289 |
| 150010 | 18.4776 | 21.7125 | 20.5570 | 20.1836 |
| 150011 | 19.1957 | 18.3742 | 18.3275 | 18.6280 |
| 150012 | 20.5193 | 22.4751 | 22.1402 | 21.6785 |
| 150013 | 16.0043 | 17.0352 | 16.9327 | 16.6522 |
| 150014 | 21.2812 | 22.0143 | 21.5168 | 21.6212 |
| 150015 | 22.0452 | 22.5409 | 21.9037 | 22.1546 |
| 150017 | 18.8898 | 18.7664 | 19.5339 | 19.0694 |
| 150018 | 19.5612 | 20.4947 | 21.0496 | 20.3869 |
| 150019 | 15.2892 | 16.6327 | 17.8585 | 16.5672 |
| 150020 | 14.4592 | 15.1120 | 16.6600 | 15.3745 |
| 150021 | 19.0162 | 19.5096 | 21.5944 | 20.0447 |
| 150022 | 17.9206 | 19.1555 | 17.9222 | 18.3309 |
| 150023 | 18.6641 | 18.3598 | 19.3412 | 18.8110 |
| 150024 | 17.8311 | 18.4140 | 19.2295 | 18.4561 |
| 150025 | 18.1490 | 17.7007 | 20.2750 | 18.6347 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 150026 | 20.5085 | 18.8417 | 22.4978 | 20.5355 |
| 150027 | 16.4846 | 17.3284 | 18.0335 | 17.2600 |
| 150029 | 21.7414 | 23.0546 | 23.2454 | 22.7440 |
| 150030 | 17.3296 | 17.9992 | 19.2406 | 18.1943 |
| 150031 | 18.0060 | 17.2429 | 18.3463 | 17.8675 |
| 150032 | 20.6391 | * | * | 20.6391 |
| 150033 | 21.6854 | 21.8768 | 22.6741 | 22.0835 |
| 150034 | 21.2868 | 22.1317 | 23.1533 | 22.1845 |
| 150035 | 19.8177 | 20.4477 | 21.2374 | 20.5107 |
| 150036 | 20.3848 | 20.8692 | 21.4567 | 20.9448 |
| 150037 | 17.7868 | 21.7109 | 24.4611 | 21.1306 |
| 150038 | 20.2503 | 21.2193 | 22.0572 | 21.2025 |
| 150039 | 17.4919 | 18.4729 | 19.6215 | 18.5025 |
| 150042 | 17.1241 | 18.1632 | 20.2221 | 18.3947 |
| 150043 | 17.9834 | 19.0120 | 20.1741 | 18.9948 |
| 150044 | 17.6432 | 18.4381 | 19.1309 | 18.4093 |
| 150045 | 17.0395 | 16.8121 | 18.1670 | 17.3563 |
| 150046 | 17.3210 | 17.6342 | 18.2543 | 17.7460 |
| 150047 | 24.8819 | 19.7441 | 22.0145 | 22.1013 |
| 150048 | 16.9573 | 19.3329 | 19.1648 | 18.5048 |
| 150049 | 16.8529 | 17.0141 | 18.6451 | 17.4705 |
| 150050 | 17.1442 | 16.8354 | 17.7354 | 17.2410 |
| 150051 | 18.1990 | 19.0130 | 19.7257 | 18.9710 |
| 150052 | 15.3618 | 15.8590 | 17.3750 | 16.2411 |
| 150053 | 18.7463 | 19.1421 | 18.8632 | 18.9165 |
| 150054 | 17.3296 | 17.3825 | 18.3916 | 17.7528 |
| 150056 | 23.2991 | 22.4087 | 21.5774 | 22.2457 |
| 150057 | 16.8630 | 16.5882 | 16.9736 | 16.8076 |
| 150058 | 20.9537 | 20.8178 | 22.1409 | 21.3058 |
| 150059 | 20.8004 | 21.2535 | 22.7360 | 21.5830 |
| 150060 | 16.0098 | 17.0743 | 18.6159 | 17.2538 |
| 150061 | 17.2141 | 17.3887 | 19.7968 | 18.0770 |
| 150062 | 18.4110 | 20.5415 | 20.8274 | 20.0239 |
| 150063 | 21.0899 | 22.0925 | 22.6525 | 21.9213 |
| 150064 | 17.0309 | 18.1400 | 20.3865 | 18.5718 |
| 150065 | 19.0051 | 19.8913 | 21.2153 | 20.0425 |
| 150066 | 14.5977 | 15.3373 | 19.5313 | 16.4634 |
| 150067 | 17.0829 | 18.2926 | 18.8862 | 18.0821 |
| 150069 | 17.3918 | 21.5310 | 23.3969 | 20.9447 |
| 150070 | 17.1992 | 17.9260 | 18.0827 | 17.7417 |
| 150071 | 14.7306 | 13.4760 | 13.5111 | 13.9122 |
| 150072 | 16.1091 | 16.2054 | 15.0765 | 15.7702 |
| 150073 | 19.0292 | 22.2968 | * | 20.5664 |
| 150074 | 18.8597 | 20.4175 | 20.2305 | 19.8210 |
| 150075 | 14.9786 | 15.5603 | 16.7532 | 15.7414 |
| 150076 | 22.3407 | 22.9382 | 22.6424 | 22.6387 |
| 150077 | 17.5750 | * | * | 17.5750 |
| 150078 | 19.0096 | 19.2718 | 19.9668 | 19.4018 |
| 150079 | 15.4545 | 17.2436 | 18.2051 | 16.9085 |
| 150082 | 17.8796 | 17.5265 | 17.8381 | 17.7489 |
| 150084 | 22.9159 | 23.2506 | 24.3107 | 23.4933 |
| 150086 | 17.3442 | 18.9735 | 18.3838 | 18.2534 |
| 150088 | 19.4475 | 18.9869 | 20.3366 | 19.5726 |
| 150089 | 22.9458 | 23.8791 | 22.1725 | 22.9671 |
| 150090 | 19.0595 | 20.7726 | 21.0945 | 20.2459 |
| 150091 | 19.8912 | 20.4053 | 22.4640 | 20.9087 |
| 150092 | 15.9174 | 16.7434 | 16.9179 | 16.5364 |
| 150094 | 18.3410 | 16.5788 | 17.5244 | 17.5067 |
| 150095 | 17.1187 | 17.1324 | 19.2749 | 17.7838 |
| 150096 | 20.0281 | 23.2764 | 20.8204 | 21.3056 |
| 150097 | 18.3103 | 19.3802 | 19.7751 | 19.1545 |
| 150098 | 14.2953 | 15.0943 | 15.2829 | 14.8856 |
| 150099 | 18.9718 | 22.4229 | * | 20.3545 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 150100 | 17.4776 | 18.4148 | 19.8066 | 18.6620 |
| 150101 | 17.5554 | 16.4604 | 20.6209 | 18.1130 |
| 150102 | 11.5034 | 19.7426 | 23.7180 | 17.1422 |
| 150103 | 17.3064 | 18.4781 | 18.7036 | 18.2137 |
| 150104 | 17.2642 | 17.6981 | 20.0765 | 18.3399 |
| 150105 | 19.1709 | 20.0431 | 22.4412 | 20.4692 |
| 150106 | 18.9097 | 16.1510 | 16.8714 | 17.2294 |
| 150109 | 18.2289 | 18.8077 | 19.9066 | 18.9623 |
| 150110 | 18.5752 | 18.6627 | 21.9336 | 19.5289 |
| 150111 | 16.1707 | 18.4556 | 19.2355 | 17.8619 |
| 150112 | 19.8155 | 20.4109 | 20.5253 | 20.2569 |
| 150113 | 19.1988 | 20.3780 | 19.6603 | 19.7455 |
| 150114 | 16.9638 | 19.5183 | 17.9877 | 18.1743 |
| 150115 | 17.0627 | 17.4315 | 18.4844 | 17.6591 |
| 150122 | 19.3545 | 18.7139 | 17.7867 | 18.6097 |
| 150123 | 15.1552 | 14.1105 | 14.0508 | 14.4522 |
| 150124 | 15.0706 | 14.6245 | 15.9487 | 15.2180 |
| 150125 | 20.3198 | 20.6735 | 21.3311 | 20.7806 |
| 150126 | 20.2958 | 21.3697 | 20.6857 | 20.7640 |
| 150127 | 22.8129 | 17.1994 | 17.0052 | 18.8048 |
| 150128 | 19.9205 | 18.5100 | 19.5576 | 19.3346 |
| 150129 | 23.4718 | 24.7711 | 28.6211 | 25.2796 |
| 150130 | 16.4144 | 18.1971 | 18.4846 | 17.6635 |
| 150132 | 19.4805 | 20.1684 | 20.9443 | 20.1836 |
| 150133 | 16.4910 | 17.3966 | 18.4250 | 17.4061 |
| 150134 | 17.0612 | 19.2526 | 19.3632 | 18.5912 |
| 150136 | 19.2819 | 20.1245 | 21.8097 | 20.3987 |
| 150145 | * | 16.6851 | * | 16.6851 |
| 150146 | * | * | 19.0204 | 19.0204 |
| 160001 | 19.0279 | 18.6035 | 19.0085 | 18.8767 |
| 160002 | 15.3724 | 15.9534 | 16.6003 | 15.9668 |
| 160003 | 15.7747 | 16.0862 | 16.2208 | 16.0221 |
| 160005 | 15.2320 | 17.6153 | 17.9405 | 16.9144 |
| 160007 | 15.6638 | 13.2101 | 15.1738 | 14.6237 |
| 160008 | 14.9698 | 15.9742 | 16.6193 | 15.8477 |
| 160009 | 16.0919 | 16.8391 | 17.9886 | 16.9591 |
| 160012 | 16.5409 | 16.4827 | 16.7112 | 16.5761 |
| 160013 | 17.0602 | 18.3996 | 18.6304 | 18.0298 |
| 160014 | 15.0861 | 15.9086 | 16.7146 | 15.8981 |
| 160016 | 18.3710 | 19.6322 | 19.9747 | 19.3376 |
| 160018 | 14.1634 | 14.5946 | 15.6141 | 14.7975 |
| 160020 | 14.4135 | 15.4712 | 15.5384 | 15.1417 |
| 160021 | 15.4860 | 16.5049 | 16.7617 | 16.2368 |
| 160023 | 14.2015 | 15.0665 | 15.0099 | 14.7723 |
| 160024 | 18.9548 | 19.7050 | 19.4764 | 19.3806 |
| 160026 | 18.6624 | 18.8379 | 19.5260 | 19.0040 |
| 160027 | 15.7403 | 16.3477 | 16.9417 | 16.3376 |
| 160028 | 20.5416 | 19.9595 | 21.0000 | 20.4893 |
| 160029 | 20.4003 | 20.4678 | 21.3457 | 20.7382 |
| 160030 | 17.9860 | 19.9508 | 19.6182 | 19.1837 |
| 160031 | 15.2831 | 15.2448 | 16.1267 | 15.5484 |
| 160032 | 16.1820 | 17.3202 | 18.3168 | 17.2888 |
| 160033 | 18.3736 | 18.8673 | 18.8859 | 18.7219 |
| 160034 | 14.5053 | 15.0019 | 16.5957 | 15.3739 |
| 160035 | 15.9199 | 15.2211 | 16.3991 | 15.8029 |
| 160036 | 19.1984 | 17.8849 | 17.4558 | 18.1820 |
| 160037 | 18.3968 | 19.0532 | 19.5045 | 18.9883 |
| 160039 | 17.6272 | 17.4758 | 17.8647 | 17.6551 |
| 160040 | 16.8295 | 18.1949 | 18.0667 | 17.6917 |
| 160041 | 15.4700 | 16.7850 | 17.4435 | 16.5782 |
| 160043 | 15.6261 | 15.6909 | 14.8564 | 15.3356 |
| 160044 | 16.0385 | 16.7439 | 17.8323 | 16.9072 |
| 160045 | 20.1154 | 20.1236 | 20.0611 | 20.1010 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 160046 | 14.7672 | 14.5655 | 16.2737 | 15.1831 |
| 160047 | 16.6926 | 18.3593 | 19.0787 | 18.0537 |
| 160048 | 13.1417 | 14.6144 | 15.6856 | 14.5140 |
| 160049 | 13.3614 | 14.5457 | 15.5673 | 14.5017 |
| 160050 | 16.4161 | 17.4912 | 17.7878 | 17.2198 |
| 160051 | 14.2660 | 14.6400 | 16.4261 | 15.1036 |
| 160052 | 17.5509 | 18.0941 | 21.7647 | 19.2313 |
| 160054 | 15.7093 | 16.1753 | 16.1981 | 16.0321 |
| 160055 | 14.0647 | 14.7600 | 15.1674 | 14.6539 |
| 160056 | 15.3758 | 16.1575 | 17.0172 | 16.1537 |
| 160057 | 17.4101 | 18.1776 | 19.1378 | 18.2553 |
| 160058 | 20.3402 | 21.1159 | 22.1061 | 21.1598 |
| 160060 | 15.9527 | 16.0436 | 17.2825 | 16.3968 |
| 160061 | 17.5707 | 17.3215 | 17.0938 | 17.3350 |
| 160062 | 14.4433 | 17.8086 | 17.4388 | 16.4393 |
| 160063 | 16.2960 | 16.8834 | 16.3583 | 16.5061 |
| 160064 | 19.9135 | 20.5496 | 22.2131 | 20.9171 |
| 160065 | 16.5087 | 16.9373 | 17.1043 | 16.8758 |
| 160066 | 16.2651 | 17.1875 | 17.9971 | 17.1716 |
| 160067 | 17.8551 | 17.8514 | 16.7833 | 17.4322 |
| 160068 | 15.8526 | 17.9892 | 19.0572 | 17.5565 |
| 160069 | 18.4857 | 19.7280 | 19.1640 | 19.1095 |
| 160070 | 15.6647 | 16.7017 | 18.4588 | 16.9299 |
| 160072 | 14.1920 | 14.9536 | 14.4141 | 14.5422 |
| 160073 | 15.0526 | 11.8261 | 11.4997 | 12.6736 |
| 160074 | 16.4772 | 19.5092 | 17.9513 | 18.0038 |
| 160075 | 17.8870 | 19.4948 | 18.4613 | 18.6342 |
| 160076 | 17.3086 | 17.9381 | 17.8824 | 17.7060 |
| 160077 | 11.4028 | 12.8826 | 13.6658 | 12.6451 |
| 160079 | 17.7050 | 17.6187 | 18.6333 | 17.9899 |
| 160080 | 17.8143 | 18.6687 | 19.4925 | 18.6704 |
| 160081 | 16.5150 | 17.0052 | 17.4466 | 17.0164 |
| 160082 | 18.7630 | 19.6499 | 19.5322 | 19.3143 |
| 160083 | 18.4078 | 20.6189 | 19.7542 | 19.5937 |
| 160085 | 18.5510 | 18.0063 | 21.2557 | 19.2281 |
| 160086 | 16.4558 | 17.3271 | 17.5308 | 17.0998 |
| 160088 | 17.5331 | 20.2331 | 22.3655 | 19.9346 |
| 160089 | 16.7419 | 16.9538 | 17.3449 | 17.0079 |
| 160090 | 16.6002 | 17.1090 | 17.9614 | 17.2461 |
| 160091 | 12.1893 | 12.8516 | 14.2573 | 13.0755 |
| 160092 | 15.7979 | 15.5011 | 17.0633 | 16.0971 |
| 160093 | 15.9525 | 17.7457 | 18.5675 | 17.5141 |
| 160094 | 16.5609 | 18.7653 | 17.6094 | 17.6731 |
| 160095 | 14.2649 | 15.1895 | 15.2722 | 14.9322 |
| 160097 | 15.2079 | 15.9263 | 16.6790 | 15.9380 |
| 160098 | 15.5385 | 16.3135 | 16.8670 | 16.2509 |
| 160099 | 13.7864 | 13.9053 | 15.0880 | 14.2533 |
| 160101 | 17.8654 | 18.3705 | 18.9788 | 18.3824 |
| 160102 | 18.3631 | 18.8765 | 20.1161 | 19.0875 |
| 160103 | 17.1519 | 17.0973 | 18.2741 | 17.4869 |
| 160104 | 19.7387 | 18.8301 | 17.4829 | 18.7797 |
| 160106 | 16.6624 | 16.9639 | 17.3474 | 16.9910 |
| 160107 | 16.5622 | 18.0634 | 18.0097 | 17.5762 |
| 160108 | 15.4183 | 16.0529 | 16.7779 | 16.0861 |
| 160109 | 16.4885 | 16.5593 | 17.9873 | 16.9740 |
| 160110 | 18.8056 | 19.1420 | 20.6215 | 19.5351 |
| 160111 | 13.1689 | 14.1644 | 14.9965 | 14.0808 |
| 160112 | 16.2829 | 16.8332 | 17.2450 | 16.7911 |
| 160113 | 14.5838 | 14.7097 | 15.4834 | 14.9308 |
| 160114 | 15.5812 | 16.1423 | 16.5006 | 16.0651 |
| 160115 | 15.7566 | 15.8995 | 16.5654 | 16.0764 |
| 160116 | 16.6927 | 16.9534 | 16.6993 | 16.7818 |
| 160117 | 17.2914 | 17.9410 | 18.7615 | 17.9848 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 160118 | 15.8351 | 17.2523 | 19.4472 | 17.5046 |
| 160120 | 12.5642 | 10.5992 | 15.6789 | 12.4454 |
| 160122 | 18.5214 | 18.9252 | 18.1469 | 18.5357 |
| 160124 | 17.1642 | 18.0908 | 19.1600 | 18.1198 |
| 160126 | 17.7397 | 17.8142 | 19.4903 | 18.3068 |
| 160129 | 15.8914 | 16.7131 | 17.2112 | 16.5953 |
| 160130 | 15.4477 | 16.0528 | 15.6666 | 15.7242 |
| 160131 | 14.6874 | 15.4898 | 16.0424 | 15.4292 |
| 160134 | 13.3246 | 13.4743 | 15.3012 | 14.0359 |
| 160135 | 16.3294 | 18.2682 | 18.7711 | 17.7744 |
| 160138 | 15.7076 | 16.8699 | 17.1491 | 16.5906 |
| 160140 | 18.7962 | 18.4007 | 18.5630 | 18.5823 |
| 160142 | 16.1372 | 16.2875 | 18.1467 | 16.8318 |
| 160143 | 15.9240 | 16.6154 | 17.4497 | 16.6799 |
| 160145 | 15.1745 | 13.9152 | 16.9092 | 15.2763 |
| 160146 | 16.3532 | 16.6024 | 17.7010 | 16.8728 |
| 160147 | 18.3917 | 17.4880 | 19.4041 | 18.3938 |
| 160151 | 15.7384 | 16.8257 | 17.2177 | 16.5833 |
| 160152 | 15.2179 | 15.6170 | 15.9500 | 15.5914 |
| 160153 | 19.6927 | 20.2316 | 21.2085 | 20.3741 |
| 170001 | 17.4383 | 17.9304 | 17.9218 | 17.7616 |
| 170004 | 13.0635 | 15.0636 | 16.1442 | 14.7434 |
| 170006 | 19.3075 | 17.2192 | 17.5982 | 17.9438 |
| 170008 | 13.9009 | 14.9124 | 16.8412 | 15.1327 |
| 170009 | 19.5867 | 20.7795 | 23.1349 | 21.2143 |
| 170010 | 17.8995 | 18.7384 | 19.4584 | 18.6890 |
| 170012 | 16.7886 | 17.8719 | 18.4432 | 17.7137 |
| 170013 | 17.8949 | 18.6454 | 19.4667 | 18.6963 |
| 170014 | 17.3379 | 17.9349 | 18.4931 | 17.9333 |
| 170015 | 15.8887 | 16.5750 | 17.1302 | 16.5216 |
| 170016 | 19.6393 | 19.2130 | 20.0675 | 19.6307 |
| 170017 | 17.8690 | 17.7958 | 19.5994 | 18.4143 |
| 170018 | 14.2759 | 15.2984 | 15.3237 | 14.9817 |
| 170019 | 16.6611 | 15.2094 | 16.9362 | 16.2597 |
| 170020 | 16.1460 | 17.3400 | 18.1325 | 17.2351 |
| 170022 | 17.9383 | 18.5309 | 19.1888 | 18.5543 |
| 170023 | 19.3585 | 19.1351 | 19.2441 | 19.2444 |
| 170024 | 13.0566 | 13.6803 | 14.3604 | 13.6835 |
| 170025 | 16.3716 | 17.8667 | 18.7182 | 17.6087 |
| 170026 | 13.3122 | 15.0470 | 14.8974 | 14.3412 |
| 170027 | 16.3859 | 17.3604 | 17.8690 | 17.2095 |
| 170030 | 15.2397 | 14.6530 | 15.9282 | 15.2488 |
| 170031 | 13.4670 | 13.9601 | 14.2151 | 13.8715 |
| 170032 | 14.4835 | 15.6093 | 16.3449 | 15.4817 |
| 170033 | 16.0529 | 16.4059 | 19.1952 | 17.1087 |
| 170034 | 14.6349 | 15.8202 | 16.9586 | 15.7633 |
| 170035 | 15.6240 | 18.5885 | 17.0945 | 17.0832 |
| 170036 | 14.1732 | * | * | 14.1732 |
| 170038 | 14.2092 | 14.7776 | 13.8582 | 14.2922 |
| 170039 | 14.2952 | 15.8635 | 17.0774 | 15.7642 |
| 170040 | 20.1419 | 21.6440 | 21.0617 | 20.9374 |
| 170041 | 11.4691 | 11.7566 | 12.4488 | 11.8690 |
| 170044 | 14.7801 | 15.3011 | 17.3254 | 15.8168 |
| 170045 | 12.1066 | 14.0875 | 25.8331 | 16.7874 |
| 170049 | 18.5821 | 19.9415 | 20.7921 | 19.8083 |
| 170051 | 14.1572 | 15.0889 | 16.4851 | 15.2703 |
| 170052 | 14.6176 | 15.0108 | 15.2283 | 14.9500 |
| 170053 | 9.0407 | 16.5102 | 14.6133 | 11.9759 |
| 170054 | 12.7655 | 14.4353 | 14.6354 | 13.9214 |
| 170055 | 14.9875 | 16.9800 | 18.2607 | 16.7698 |
| 170056 | 14.8656 | 17.0442 | 18.3550 | 16.8283 |
| 170057 | 15.0892 | 13.0007 | * | 13.9776 |
| 170058 | 18.3389 | 18.6983 | 19.5415 | 18.8159 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 170060 | 17.2271 | 17.3482 | 18.9853 | 17.7512 |
| 170061 | 14.1380 | 15.6527 | 15.0258 | 14.9459 |
| 170063 | 11.3284 | 12.8082 | 14.1185 | 12.6216 |
| 170064 | 12.4183 | * | * | 12.4183 |
| 170066 | 14.4790 | 15.5322 | 16.2891 | 15.4168 |
| 170067 | 12.7846 | 14.7492 | 14.9921 | 14.1535 |
| 170068 | 15.8175 | 15.1790 | 17.0022 | 15.9795 |
| 170070 | 12.8158 | 14.2445 | 14.0627 | 13.7083 |
| 170072 | 13.3379 | 12.6329 | 12.7709 | 12.9159 |
| 170073 | 16.4690 | 17.5368 | 17.7056 | 17.2186 |
| 170074 | 14.4009 | 17.5537 | 17.3699 | 16.4326 |
| 170075 | 11.2598 | 12.4212 | 13.6816 | 12.5950 |
| 170076 | 13.5820 | 14.5866 | 14.6109 | 14.2394 |
| 170077 | 12.7244 | 13.5235 | 13.9104 | 13.3651 |
| 170079 | 14.2859 | 13.5261 | 11.5902 | 13.1470 |
| 170080 | 12.2012 | 12.6014 | 14.8293 | 13.1562 |
| 170081 | 12.5122 | 13.8077 | 14.6823 | 13.7421 |
| 170082 | 12.3902 | 12.8563 | 13.7462 | 12.9854 |
| 170084 | 12.1611 | 12.5410 | 13.0519 | 12.5742 |
| 170085 | 14.5069 | 15.4518 | 17.5422 | 15.9150 |
| 170086 | 19.8496 | 20.4068 | 19.7182 | 19.9991 |
| 170088 | 11.7505 | 13.4542 | 13.4860 | 12.9031 |
| 170089 | 18.0823 | 18.8136 | 15.4860 | 17.4574 |
| 170090 | 11.2747 | 11.9147 | 10.9444 | 11.3947 |
| 170092 | 12.8507 | * | * | 12.8507 |
| 170093 | 12.7780 | 13.5490 | 14.0276 | 13.4193 |
| 170094 | 17.7091 | 20.1985 | 21.2035 | 19.6936 |
| 170095 | 15.7469 | 15.5463 | 15.3532 | 15.5482 |
| 170097 | 15.8504 | 16.4608 | 17.7540 | 16.7203 |
| 170098 | 14.1026 | 15.5259 | 16.6210 | 15.4425 |
| 170099 | 13.5509 | 13.6033 | 14.3370 | 13.8072 |
| 170100 | 14.4700 | * | * | 14.4700 |
| 170101 | 12.8847 | 14.5629 | 18.0143 | 14.7718 |
| 170102 | 13.2434 | 13.6321 | 14.2447 | 13.7065 |
| 170103 | 16.6578 | 17.2844 | 17.9530 | 17.2887 |
| 170104 | 19.7645 | 20.6182 | 21.0049 | 20.4661 |
| 170105 | 15.9290 | 16.5408 | 16.7403 | 16.4083 |
| 170106 | 14.6773 | 18.5479 | 17.7467 | 16.9030 |
| 170109 | 16.9421 | 17.2629 | 16.9782 | 17.0622 |
| 170110 | 15.5549 | 16.9823 | 18.5731 | 17.1658 |
| 170112 | 13.3908 | 14.3855 | 15.4049 | 14.4270 |
| 170113 | 13.3935 | 13.9038 | 14.6486 | 13.9920 |
| 170114 | 14.5116 | 14.4545 | 16.2645 | 15.0138 |
| 170115 | 12.6815 | 12.6997 | 12.9216 | 12.7709 |
| 170116 | 15.7566 | 16.8714 | 18.1830 | 16.9494 |
| 170117 | 15.2818 | 15.7875 | 16.8237 | 15.8968 |
| 170119 | 13.9673 | 15.1990 | 15.2708 | 14.7822 |
| 170120 | 16.2122 | 17.6748 | 17.4917 | 17.1241 |
| 170122 | 20.1266 | 20.0615 | 21.1769 | 20.4366 |
| 170123 | 21.4168 | 23.1697 | 23.6534 | 22.7009 |
| 170124 | 10.2089 | 11.1249 | 15.0596 | 11.8247 |
| 170126 | 12.1268 | 12.8096 | 13.5736 | 12.8129 |
| 170128 | 14.9919 | 14.8891 | 14.1676 | 14.6301 |
| 170131 | 13.0978 | 10.1000 | * | 11.3849 |
| 170133 | 17.1103 | 18.0243 | 18.8119 | 17.9917 |
| 170134 | 14.2252 | 14.1085 | 14.6799 | 14.3402 |
| 170137 | 17.4151 | 17.8290 | 19.3118 | 18.1884 |
| 170139 | 13.3896 | 14.1967 | 14.3001 | 13.9545 |
| 170142 | 17.3234 | * | 17.7134 | 17.5177 |
| 170143 | 15.8802 | 15.6509 | 16.0415 | 15.8575 |
| 170144 | 16.0860 | 19.0929 | 20.4392 | 18.4073 |
| 170145 | 16.7499 | 17.1837 | 19.0142 | 17.6442 |
| 170146 | 19.9725 | 20.9075 | 21.7919 | 20.9132 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 170147 | 16.2829 | 22.3017 | 17.6717 | 18.6905 |
| 170148 | 17.2497 | 16.9183 | 19.1942 | 17.6867 |
| 170150 | 15.4283 | 15.5651 | 15.9072 | 15.6422 |
| 170151 | 13.3674 | 13.8934 | 14.3668 | 13.8637 |
| 170152 | 13.6846 | 14.9139 | 15.6423 | 14.7323 |
| 170160 | 13.3087 | 13.7108 | 14.4732 | 13.8369 |
| 170164 | 15.5597 | 16.6542 | 17.4072 | 16.5279 |
| 170166 | 17.5681 | 27.5567 | 12.7507 | 18.3396 |
| 170171 | 13.8059 | 12.5200 | 13.1792 | 13.1761 |
| 170175 | 17.8802 | 19.0232 | 20.1907 | 18.9985 |
| 170176 | 20.3194 | 21.3400 | 23.5043 | 21.7098 |
| 170180 | * | 16.6921 | 8.6352 | 11.8552 |
| 170182 | 14.1971 | 22.2164 | 21.3454 | 19.8791 |
| 170183 | 19.0919 | 20.3505 | 19.5182 | 19.7036 |
| 170184 | 27.0152 | * | * | 27.0152 |
| 180001 | 19.5188 | 17.9906 | 20.4885 | 19.3882 |
| 180002 | 18.1348 | 17.9669 | 17.5798 | 17.8819 |
| 180004 | 15.9921 | 17.2581 | 17.7149 | 16.9654 |
| 180005 | 20.6280 | 21.1390 | 22.4634 | 21.3796 |
| 180006 | 11.2254 | 11.4398 | 10.3400 | 11.0123 |
| 180007 | 17.1997 | 17.6776 | 17.9491 | 17.6005 |
| 180009 | 20.8103 | 21.4730 | 21.0608 | 21.1163 |
| 180010 | 17.5452 | 19.1100 | 19.6311 | 18.7406 |
| 180011 | 16.9311 | 17.1050 | 19.0526 | 17.8588 |
| 180012 | 18.7350 | 18.7223 | 19.0646 | 18.8428 |
| 180013 | 17.4487 | 18.2354 | 19.7418 | 18.5305 |
| 180014 | 20.8033 | 21.4856 | 21.3361 | 21.1759 |
| 180016 | 18.8422 | 19.8892 | 21.1458 | 20.0187 |
| 180017 | 15.1699 | 15.4140 | 15.6583 | 15.4240 |
| 180018 | 18.9020 | 17.1692 | 15.4892 | 17.0584 |
| 180019 | 16.7648 | 17.3970 | 17.8285 | 17.3565 |
| 180020 | 17.7782 | 17.7288 | 18.0111 | 17.8397 |
| 180021 | 15.1627 | 15.4580 | 17.0618 | 15.8957 |
| 180023 | 15.2219 | 15.8803 | 17.4717 | 16.1885 |
| 180024 | 15.3299 | 16.1731 | 16.5040 | 15.9951 |
| 180025 | 17.1688 | 14.1841 | 15.4180 | 15.4826 |
| 180026 | 14.1571 | 14.6804 | 15.0118 | 14.6082 |
| 180027 | 14.8869 | 16.4116 | 17.5286 | 16.2087 |
| 180028 | 19.3519 | 19.5276 | 15.7005 | 18.0068 |
| 180029 | 18.0191 | 17.7729 | 17.7248 | 17.8352 |
| 180030 | 17.0234 | 17.3430 | 17.9543 | 17.4342 |
| 180031 | 13.7862 | 13.9844 | 13.1848 | 13.6178 |
| 180032 | 16.0941 | 16.8318 | 17.2784 | 16.7976 |
| 180033 | 13.7667 | 17.7344 | 15.4131 | 15.5472 |
| 180034 | 17.3158 | 15.3369 | 16.3991 | 16.3000 |
| 180035 | 19.4485 | 20.1305 | 21.3666 | 20.2870 |
| 180036 | 19.1922 | 19.8398 | 20.1860 | 19.7448 |
| 180037 | 18.8053 | 19.9737 | 21.2184 | 19.9797 |
| 180038 | 17.1643 | 17.7626 | 18.5923 | 17.8512 |
| 180040 | 19.4450 | 19.5337 | 21.2229 | 20.0583 |
| 180041 | 15.1703 | 15.0785 | 16.3699 | 15.5655 |
| 180042 | 16.2924 | 16.7691 | 17.1519 | 16.7450 |
| 180043 | 16.6077 | 16.8027 | 14.6526 | 15.9643 |
| 180044 | 17.8196 | 18.5571 | 19.4984 | 18.6534 |
| 180045 | 17.7272 | 17.7130 | 20.8455 | 18.9499 |
| 180046 | 17.9096 | 19.2523 | 21.2080 | 19.4569 |
| 180047 | 15.0354 | 16.2304 | 18.6938 | 16.6027 |
| 180048 | 19.5681 | 18.3442 | 17.7816 | 18.5208 |
| 180049 | 16.0799 | 16.4319 | 16.5459 | 16.3594 |
| 180050 | 18.4753 | 17.8540 | 17.1493 | 17.7884 |
| 180051 | 15.6796 | 16.3960 | 17.5441 | 16.5170 |
| 180053 | 14.6299 | 15.9284 | 15.8994 | 15.5002 |
| 180054 | 16.3875 | 19.4858 | 20.0946 | 18.5771 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 180055 | 14.6446 | 15.2663 | 15.8422 | 15.2446 |
| 180056 | 16.6240 | 17.0056 | 17.5881 | 17.0744 |
| 180058 | 14.3562 | 15.9685 | 14.5355 | 14.9226 |
| 180059 | 14.2605 | 13.3955 | 14.7032 | 14.1102 |
| 180060 | 7.2139 | * | * | 7.2139 |
| 180063 | 11.9120 | 13.1036 | 12.4448 | 12.4785 |
| 180064 | 14.4872 | 15.2424 | 15.5066 | 15.0871 |
| 180065 | 20.0286 | 12.0629 | 11.1934 | 13.8815 |
| 180066 | 18.5635 | 19.2981 | 19.8956 | 19.2578 |
| 180067 | 18.5288 | 20.6322 | 20.1712 | 19.7577 |
| 180069 | 17.2956 | 17.7911 | 16.2916 | 17.1149 |
| 180070 | 13.8370 | 13.1923 | 15.9362 | 14.2840 |
| 180072 | 17.8554 | 16.9021 | 17.2347 | 17.3229 |
| 180075 | 15.0701 | * | * | 15.0701 |
| 180078 | 19.1615 | 21.1170 | 21.7116 | 20.6787 |
| 180079 | 13.4072 | 15.1636 | 15.9048 | 14.8197 |
| 180080 | 15.8327 | 16.4989 | 16.6428 | 16.3363 |
| 180087 | 14.9660 | 14.9167 | 15.6089 | 15.1555 |
| 180088 | 22.5349 | 22.0374 | 22.1774 | 22.2484 |
| 180092 | 16.3099 | 18.2405 | 18.3597 | 17.6633 |
| 180093 | 16.8286 | 17.0132 | 17.8492 | 17.2232 |
| 180094 | 12.5074 | 13.5490 | 13.6233 | 13.2263 |
| 180095 | 13.3991 | 13.8021 | 13.9050 | 13.6989 |
| 180099 | 13.6988 | 13.3631 | 13.2991 | 13.4593 |
| 180101 | 19.5644 | 18.4883 | * | 18.9778 |
| 180102 | 17.8751 | 17.9618 | 18.5240 | 18.1008 |
| 180103 | 19.2182 | 19.8965 | 20.3490 | 19.8359 |
| 180104 | 18.8730 | 18.9281 | 19.3922 | 19.0643 |
| 180105 | 14.0811 | 15.2394 | 16.6997 | 15.2994 |
| 180106 | 13.6062 | 14.3505 | 15.2895 | 14.3903 |
| 180108 | 14.6222 | 14.8187 | 14.4740 | 14.6381 |
| 180115 | 17.1079 | 16.7003 | 16.9096 | 16.9026 |
| 180116 | 16.9389 | 18.0392 | 18.6077 | 17.8709 |
| 180117 | 18.3821 | 17.7857 | 23.0192 | 19.6584 |
| 180118 | 12.1533 | 15.8597 | 16.9250 | 14.8270 |
| 180120 | 17.8145 | 16.1591 | 15.3115 | 16.3371 |
| 180121 | 14.5134 | 15.0983 | 20.0494 | 16.3330 |
| 180122 | 16.9678 | 18.5094 | 18.1930 | 17.8754 |
| 180123 | 18.9995 | 21.0613 | 21.1067 | 20.4023 |
| 180124 | 18.4064 | 17.4994 | 18.8487 | 18.2269 |
| 180125 | 19.7341 | 19.6416 | 14.9314 | 17.5744 |
| 180126 | 12.3959 | 12.9228 | 14.3551 | 13.2733 |
| 180127 | 17.3452 | 19.2581 | 17.6365 | 18.0663 |
| 180128 | 17.0508 | 17.6385 | 18.2817 | 17.6802 |
| 180129 | 17.8600 | 16.8378 | 22.3536 | 18.8696 |
| 180130 | 19.0110 | 19.8192 | 20.6450 | 19.8370 |
| 180132 | 17.2657 | 17.7744 | 19.5884 | 18.2006 |
| 180133 | 22.2325 | 21.6794 | 21.7800 | 21.8995 |
| 180134 | 13.6287 | 13.1935 | 14.5387 | 13.7967 |
| 180136 | 17.7146 | 17.3542 | * | 17.5359 |
| 180138 | 18.6149 | 19.3692 | 20.2102 | 19.4170 |
| 180139 | 18.7679 | 18.7198 | 20.5350 | 19.3756 |
| 180140 | 20.3953 | 16.8152 | 15.2719 | 17.3915 |
| 180141 | 20.0075 | 20.9820 | 23.8930 | 21.4590 |
| 180142 | * | * | 20.7510 | 20.7510 |
| 190001 | 17.0159 | 17.6832 | 18.1514 | 17.6263 |
| 190002 | 18.8381 | 19.1924 | 19.8834 | 19.2931 |
| 190003 | 22.1543 | 19.7749 | 19.9121 | 20.4811 |
| 190004 | 17.5385 | 17.7710 | 18.3620 | 17.8959 |
| 190005 | 16.7149 | 17.2422 | 17.5161 | 17.1568 |
| 190006 | 17.7335 | 17.8036 | 17.5911 | 17.7112 |
| 190007 | 13.6014 | 13.8189 | 14.4720 | 13.9833 |
| 190008 | 16.8916 | 18.6664 | 19.2456 | 18.2327 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 190009 | 14.2085 | 15.3555 | 15.9731 | 15.1819 |
| 190010 | 17.0192 | 16.2805 | 16.5020 | 16.6088 |
| 190011 | 15.1715 | 15.9534 | 15.6351 | 15.5881 |
| 190013 | 16.5706 | 16.8181 | 15.5019 | 16.2739 |
| 190014 | 17.0170 | 17.0959 | 17.8015 | 17.3107 |
| 190015 | 18.1943 | 18.6266 | 18.9896 | 18.6153 |
| 190017 | 15.7894 | 16.2393 | 17.5381 | 16.5250 |
| 190018 | 16.9761 | 15.0668 | 11.1898 | 14.5841 |
| 190019 | 17.4006 | 18.5257 | 18.3788 | 18.1281 |
| 190020 | 17.3084 | 17.5256 | 17.6840 | 17.5059 |
| 190025 | 16.0738 | 18.6369 | 16.8686 | 17.2271 |
| 190026 | 17.2166 | 18.1622 | 18.5015 | 17.9532 |
| 190027 | 16.1856 | 17.0827 | 17.4761 | 16.9034 |
| 190029 | 17.1103 | 16.5239 | 19.1967 | 17.5497 |
| 190033 | 10.7448 | * | * | 10.7448 |
| 190034 | 16.5066 | 16.8503 | 18.0754 | 17.1513 |
| 190036 | 19.9456 | 20.1780 | 20.0300 | 20.0491 |
| 190037 | 12.0237 | 17.6945 | 19.9878 | 16.0686 |
| 190039 | 17.1687 | 19.4713 | 19.0376 | 18.5119 |
| 190040 | 20.3180 | 21.4634 | 21.7376 | 21.1907 |
| 190041 | 17.8975 | 17.6646 | 17.9535 | 17.8382 |
| 190043 | 12.5660 | 15.5580 | 15.5618 | 14.5094 |
| 190044 | 17.1984 | 17.2892 | 17.4471 | 17.3108 |
| 190045 | 21.6948 | 21.6107 | 21.2853 | 21.5139 |
| 190046 | 19.3538 | 19.7964 | 20.4458 | 19.8736 |
| 190048 | 16.3404 | 16.6683 | 16.8136 | 16.6153 |
| 190049 | 16.4250 | 17.2280 | 17.7417 | 17.1570 |
| 190050 | 15.3771 | 16.1980 | 16.2854 | 15.9545 |
| 190053 | 12.4980 | 13.2159 | 13.0080 | 12.9160 |
| 190054 | 16.4683 | 19.1738 | 18.9059 | 18.1924 |
| 190059 | 15.8443 | 15.6942 | 15.8373 | 15.7915 |
| 190060 | 18.3689 | 14.7186 | 17.8443 | 16.7639 |
| 190064 | 19.9047 | 20.4482 | 18.2466 | 19.4909 |
| 190065 | 19.3856 | 20.9927 | 18.3091 | 19.5174 |
| 190071 | 13.5908 | 14.4827 | 16.4138 | 14.8320 |
| 190077 | 12.8290 | 15.7805 | 16.5536 | 15.0793 |
| 190078 | 13.4990 | 14.8826 | 16.9383 | 14.8793 |
| 190079 | 17.2909 | 17.7120 | 17.9403 | 17.6368 |
| 190081 | 12.0190 | 15.3198 | 14.9707 | 14.2301 |
| 190083 | 16.1374 | 18.8895 | 18.4951 | 17.8399 |
| 190086 | 14.9295 | 15.8694 | 16.5074 | 15.7738 |
| 190088 | 19.6328 | 20.5531 | 19.9362 | 20.0391 |
| 190089 | 12.7879 | 13.0503 | 15.0395 | 13.5823 |
| 190090 | 16.5580 | 16.6664 | 16.2351 | 16.4928 |
| 190092 | 18.0655 | * | * | 18.0655 |
| 190095 | 15.7316 | 16.2287 | 17.3258 | 16.3915 |
| 190098 | 19.2175 | 20.4897 | 21.0847 | 20.2301 |
| 190099 | 18.9255 | 19.9018 | 19.0635 | 19.3257 |
| 190102 | 19.0477 | 20.0300 | 20.7870 | 19.9631 |
| 190103 | 15.5698 | 12.1389 | 14.4158 | 13.8580 |
| 190106 | 17.7468 | 18.5813 | 18.5908 | 18.3281 |
| 190109 | 14.5288 | 15.5767 | 15.8187 | 15.3068 |
| 190110 | 12.9925 | 15.8052 | 15.7313 | 14.8387 |
| 190111 | 20.0376 | 19.7514 | 20.6508 | 20.1574 |
| 190112 | 19.2067 | 21.0232 | 22.0741 | 20.6951 |
| 190113 | 18.9922 | 12.5777 | * | 15.7380 |
| 190114 | 12.9083 | 12.6366 | 13.9209 | 13.1568 |
| 190115 | 20.4914 | 20.2473 | 22.7583 | 21.1252 |
| 190116 | 12.5881 | 15.5481 | 17.3757 | 15.1678 |
| 190118 | 12.9537 | 14.7876 | 16.3776 | 14.7222 |
| 190120 | 13.6938 | 13.9591 | 17.2309 | 14.9846 |
| 190122 | 14.8255 | 15.4793 | 15.3742 | 15.2287 |
| 190124 | 22.3825 | 20.6222 | 20.1206 | 20.9375 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 190125 | 18.6287 | 20.4517 | 19.8298 | 19.6458 |
| 190128 | 19.7127 | 20.4688 | 20.8770 | 20.3583 |
| 190130 | 12.4307 | 15.1467 | 14.0379 | 13.8956 |
| 190131 | 19.5984 | 20.7565 | 18.8958 | 19.7536 |
| 190133 | 13.4750 | 13.5383 | 15.1393 | 13.9917 |
| 190134 | 12.6774 | 12.1749 | 12.4507 | 12.4351 |
| 190135 | 21.3511 | 21.6875 | 21.3454 | 21.4650 |
| 190136 | 11.3250 | 12.4091 | 15.1662 | 13.0730 |
| 190138 | 22.7088 | * | * | 22.7088 |
| 190140 | 12.0285 | 14.2256 | 14.6829 | 13.6611 |
| 190142 | 14.9820 | 15.4861 | 16.2280 | 15.5517 |
| 190144 | 16.8360 | 16.2068 | 18.4405 | 17.1561 |
| 190145 | 13.9893 | 15.2345 | 16.2505 | 15.1638 |
| 190146 | 20.0941 | 21.2825 | 21.9607 | 21.1552 |
| 190147 | 14.3219 | 14.4345 | 14.7202 | 14.4910 |
| 190148 | 14.0180 | 16.6337 | 15.5338 | 15.4604 |
| 190149 | 15.1862 | 17.5997 | 16.4722 | 16.4169 |
| 190151 | 11.9190 | 14.7333 | 15.5210 | 14.0028 |
| 190152 | 20.3951 | 22.2070 | 22.0319 | 21.4716 |
| 190155 | 11.0800 | * | * | 11.0800 |
| 190156 | 12.4786 | 15.7478 | 16.0442 | 14.6766 |
| 190158 | 19.6164 | 20.4637 | 20.4078 | 20.1474 |
| 190160 | 18.4746 | 17.1003 | 18.4662 | 18.0078 |
| 190161 | 14.6295 | 15.5737 | 15.9280 | 15.3544 |
| 190162 | 19.5027 | 20.6143 | 20.1962 | 20.0440 |
| 190164 | 16.3328 | 15.1783 | 18.2379 | 16.4778 |
| 190167 | 16.2880 | 16.6681 | 17.7611 | 16.9143 |
| 190170 | 13.5772 | 14.1750 | 14.5222 | 14.0895 |
| 190173 | 19.6362 | 23.6398 | 23.0934 | 22.0602 |
| 190175 | 20.6908 | 19.3625 | 20.4580 | 20.1298 |
| 190176 | 18.8205 | 24.0574 | 22.2316 | 21.4596 |
| 190177 | 20.3177 | 18.6715 | 19.7794 | 19.5846 |
| 190178 | 10.4941 | 11.0657 | 12.0372 | 11.1714 |
| 190182 | 20.0267 | 20.2855 | 20.7102 | 20.3281 |
| 190183 | 16.1064 | 16.7671 | 16.0752 | 16.3134 |
| 190184 | 14.8645 | 17.2044 | 19.8436 | 17.2547 |
| 190185 | 19.3707 | 20.1444 | 20.5852 | 20.0405 |
| 190186 | 16.3586 | 18.7568 | 17.4078 | 17.5306 |
| 190189 | 26.5419 | * | * | 26.5419 |
| 190190 | 18.6656 | 17.4642 | 15.8985 | 17.1134 |
| 190191 | 18.1353 | 20.4975 | 19.6911 | 19.4475 |
| 190196 | 14.8699 | 17.9225 | 18.6138 | 17.2784 |
| 190197 | 17.9166 | 19.5569 | 20.2082 | 19.2721 |
| 190199 | 13.4222 | 16.0637 | 15.3522 | 14.6078 |
| 190200 | 19.4148 | 22.0391 | 21.6852 | 21.0397 |
| 190201 | 19.1432 | 18.7079 | 19.7421 | 19.2055 |
| 190202 | 17.8959 | * | * | 17.8959 |
| 190203 | 21.3096 | 21.7350 | 21.7931 | 21.5975 |
| 190204 | 21.2119 | 21.4624 | 20.5784 | 21.0754 |
| 190205 | 18.1007 | 19.6587 | 19.3737 | 19.0483 |
| 190206 | 20.0648 | 21.7012 | 21.3307 | 21.0222 |
| 190207 | 17.6712 | 20.5082 | 19.0216 | 19.1034 |
| 190208 | 14.6096 | 20.0065 | 16.9641 | 17.1855 |
| 190218 | 18.1627 | 19.7518 | 19.2992 | 19.0335 |
| 190223 | 19.2550 | * | * | 19.2550 |
| 190227 | 12.1086 | * | * | 12.1086 |
| 190231 | 16.8850 | 15.8287 | 17.7247 | 16.7665 |
| 190235 | 18.2702 | * | * | 18.2702 |
| 190236 | 22.1837 | 19.3395 | 21.1982 | 20.9440 |
| 190238 | * | * | 20.6799 | 20.6799 |
| 190239 | * | * | 19.7601 | 19.7601 |
| 190240 | * | * | 14.3579 | 14.3579 |
| 200001 | 17.4890 | 18.0527 | 18.2513 | 17.9448 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 200002 | 18.7745 | 19.3629 | 22.3035 | 20.2028 |
| 200003 | 16.7389 | 16.9566 | 18.4141 | 17.3782 |
| 200006 | 19.7984 | 17.6586 | 21.0922 | 19.4856 |
| 200007 | 17.8859 | 18.7992 | 18.1681 | 18.2871 |
| 200008 | 20.5020 | 21.7489 | 21.5556 | 21.2780 |
| 200009 | 20.6433 | 22.2280 | 21.4763 | 21.4574 |
| 200012 | 17.0130 | 18.3484 | 19.1047 | 18.1711 |
| 200013 | 16.4933 | 18.0566 | 17.9378 | 17.5422 |
| 200015 | 20.1117 | * | * | 20.1117 |
| 200016 | 17.6623 | 18.0866 | 17.1187 | 17.6192 |
| 200017 | 19.6462 | 17.2930 | * | 18.7598 |
| 200018 | 17.2422 | 18.5397 | 17.8675 | 17.8479 |
| 200019 | 18.6399 | 19.2348 | 19.9245 | 19.2946 |
| 200020 | 20.5967 | 22.4526 | 22.3355 | 21.8088 |
| 200021 | 19.4052 | 19.9133 | 20.7361 | 19.9988 |
| 200023 | 14.9164 | 16.1707 | 20.2063 | 16.7560 |
| 200024 | 18.6518 | 19.4329 | 20.8336 | 19.6454 |
| 200025 | 19.0659 | 20.2259 | 20.4165 | 19.9282 |
| 200026 | 17.2842 | 18.1194 | 17.9021 | 17.7766 |
| 200027 | 18.2775 | 18.5659 | 19.4220 | 18.7949 |
| 200028 | 16.9306 | 19.5708 | 18.8763 | 18.4290 |
| 200031 | 15.9043 | 16.2217 | 16.1641 | 16.1005 |
| 200032 | 17.9160 | 18.9315 | 19.4613 | 18.7411 |
| 200033 | 21.4031 | 21.8634 | 22.4685 | 21.9155 |
| 200034 | 19.2407 | 20.1519 | 20.4941 | 19.9680 |
| 200037 | 18.2419 | 18.6713 | 20.3015 | 19.1236 |
| 200038 | 19.2147 | 23.3851 | 21.2632 | 21.2824 |
| 200039 | 20.2901 | 19.8589 | 20.1508 | 20.0694 |
| 200040 | 19.2970 | 19.5503 | 18.9580 | 19.2627 |
| 200041 | 17.6559 | 19.3563 | 18.8131 | 18.6006 |
| 200043 | 16.5368 | 16.7224 | 19.4295 | 17.5199 |
| 200050 | 18.0805 | 20.1214 | 20.2014 | 19.5017 |
| 200051 | 19.5925 | 22.1525 | 22.0712 | 21.5149 |
| 200052 | 15.1216 | 17.2099 | 17.6271 | 16.6895 |
| 200055 | 17.1729 | 18.8422 | 18.5983 | 18.1835 |
| 200062 | 16.5139 | 17.2273 | 18.4279 | 17.3769 |
| 200063 | 19.6658 | 19.9331 | 21.2121 | 20.2562 |
| 200066 | 16.3431 | 17.0289 | 17.0570 | 16.8076 |
| 210001 | 18.7266 | 20.4841 | 18.6617 | 19.2372 |
| 210002 | 22.8448 | 19.9219 | 23.5132 | 22.2827 |
| 210003 | 25.3730 | 20.3446 | 26.0447 | 23.6583 |
| 210004 | 23.5884 | 24.2909 | 24.9760 | 24.2880 |
| 210005 | 19.6162 | 21.4929 | 21.3829 | 20.7876 |
| 210006 | 17.7721 | 18.9436 | 19.3682 | 18.7016 |
| 210007 | 21.5415 | 23.1007 | 23.8840 | 22.8043 |
| 210008 | 19.5006 | 21.1768 | 21.2895 | 20.6531 |
| 210009 | 21.8111 | 20.5447 | 20.7479 | 21.0282 |
| 210010 | 14.3783 | 18.7197 | 19.5908 | 17.3758 |
| 210011 | 21.2422 | 21.4862 | 21.4043 | 21.3727 |
| 210012 | 23.4317 | 20.7203 | 21.3977 | 21.7764 |
| 210013 | 18.8455 | 19.7288 | 19.4505 | 19.3405 |
| 210015 | 16.6898 | 16.1912 | 18.7448 | 17.2340 |
| 210016 | 22.1469 | 23.8739 | 26.5193 | 24.0991 |
| 210017 | 17.1747 | 18.8928 | 18.5079 | 18.1448 |
| 210018 | 21.4055 | 22.2135 | 22.8553 | 22.1574 |
| 210019 | 19.0899 | 19.3046 | 20.6025 | 19.6453 |
| 210022 | 21.8160 | 22.6389 | 24.5744 | 23.0098 |
| 210023 | 21.7988 | 23.1950 | 22.9989 | 22.6719 |
| 210024 | 19.5645 | 20.6011 | 24.4280 | 21.4080 |
| 210025 | 19.5704 | 19.5876 | 21.2769 | 20.0208 |
| 210026 | 11.6440 | 12.1348 | 13.8668 | 12.6171 |
| 210027 | 18.4862 | 17.6855 | 17.1060 | 17.7943 |
| 210028 | 18.8623 | 19.6408 | 19.4157 | 19.3091 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 210029 | 22.3876 | 21.2167 | 25.4939 | 23.0892 |
| 210030 | 21.0169 | 21.7403 | 20.9574 | 21.2261 |
| 210031 | 15.5873 | 16.2299 | * | 15.9014 |
| 210032 | 18.4983 | 17.7228 | 20.1955 | 18.7972 |
| 210033 | 19.9144 | 20.8053 | 23.7588 | 21.3886 |
| 210034 | 16.1216 | 15.7322 | 19.4144 | 17.1228 |
| 210035 | 20.6092 | 20.2731 | 20.8317 | 20.5720 |
| 210037 | 18.7361 | 18.3072 | 20.5528 | 19.2053 |
| 210038 | 23.2616 | 23.4971 | 24.9762 | 23.8679 |
| 210039 | 20.7291 | 19.9901 | 21.3559 | 20.7067 |
| 210040 | 25.0770 | 21.5014 | 23.4252 | 23.3184 |
| 210043 | 18.5891 | 19.6474 | 22.4000 | 20.0973 |
| 210044 | 22.2438 | 22.5781 | 23.0917 | 22.6329 |
| 210045 | 9.6862 | 11.6086 | 12.1467 | 11.1781 |
| 210048 | 22.3923 | 23.0537 | 24.6921 | 23.3434 |
| 210049 | 17.6697 | 19.0821 | 19.3022 | 18.6991 |
| 210051 | 20.7633 | 22.4335 | 23.6476 | 22.3235 |
| 210054 | 23.5122 | 22.3559 | 23.2730 | 23.0396 |
| 210055 | 20.1012 | 29.2539 | 26.5272 | 25.0062 |
| 210056 | 20.9445 | 19.2662 | 22.9593 | 21.0605 |
| 210057 | 22.5717 | 23.8289 | 26.0076 | 24.0668 |
| 210058 | 21.4976 | 22.0753 | 16.3191 | 20.0884 |
| 210059 | 23.1274 | 22.6766 | 25.6052 | 23.5899 |
| 210060 | * | * | 26.5846 | 26.5846 |
| 210061 | 20.0203 | 17.2240 | 16.1931 | 17.8181 |
| 220001 | 26.3207 | 21.9369 | 22.9064 | 22.9526 |
| 220002 | 22.5808 | 24.1285 | 16.3789 | 20.4063 |
| 220003 | 19.1383 | 16.9246 | 17.9319 | 17.9948 |
| 220004 | 20.0058 | * | * | 20.0058 |
| 220006 | 22.1228 | 22.3085 | 22.6337 | 22.3566 |
| 220008 | 21.8873 | 24.4691 | 22.0796 | 22.7689 |
| 220010 | 21.9226 | 21.8582 | 22.0067 | 21.9297 |
| 220011 | 28.5673 | 26.1827 | 29.5290 | 28.2047 |
| 220012 | 29.5051 | 32.0829 | 31.2303 | 30.9286 |
| 220015 | 21.7813 | 22.5773 | 23.1893 | 22.4843 |
| 220016 | 23.1440 | 23.3750 | 23.0951 | 23.2050 |
| 220017 | 25.2630 | 22.4605 | 25.1568 | 24.2781 |
| 220019 | 19.1264 | 19.5613 | 19.8551 | 19.5190 |
| 220020 | 19.9925 | 21.4152 | 22.4295 | 21.2738 |
| 220021 | 23.6313 | * | * | 23.6313 |
| 220023 | 18.7625 | 16.1885 | * | 18.0910 |
| 220024 | 21.5871 | 21.5363 | 21.9316 | 21.6947 |
| 220025 | 19.9398 | 20.7882 | 22.8593 | 21.1235 |
| 220028 | 22.0721 | 22.8036 | 21.0630 | 21.9530 |
| 220029 | 21.8711 | 23.1509 | 25.6560 | 23.4858 |
| 220030 | 14.5383 | 18.5441 | 18.7429 | 17.2580 |
| 220031 | 28.1584 | 30.2430 | 29.3091 | 29.1415 |
| 220033 | 20.4120 | 20.0695 | 20.3609 | 20.2712 |
| 220035 | 21.9974 | 21.6396 | 23.1892 | 22.2365 |
| 220036 | 24.1570 | 24.6470 | 24.4091 | 24.3977 |
| 220038 | 22.3494 | 22.6518 | 22.3162 | 22.4382 |
| 220041 | 23.1483 | 23.4720 | 27.5034 | 24.5999 |
| 220042 | 25.2852 | 25.0779 | 26.0473 | 25.4181 |
| 220046 | 22.4677 | 22.7068 | 23.3149 | 22.8459 |
| 220049 | 23.0283 | 26.0025 | 27.2689 | 25.4891 |
| 220050 | 20.8345 | 22.0144 | 22.5265 | 21.7871 |
| 220051 | 20.4765 | 21.1033 | 21.7357 | 21.0973 |
| 220052 | 23.1376 | 23.7650 | 23.5225 | 23.4708 |
| 220053 | 21.2679 | 19.1280 | * | 20.2813 |
| 220055 | 21.5706 | 21.3743 | * | 21.4727 |
| 220057 | 23.0010 | 25.3902 | 25.8064 | 24.6606 |
| 220058 | 20.1888 | 19.9369 | 26.8345 | 22.1915 |
| 220060 | 26.1753 | 28.0843 | 28.0794 | 27.4392 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 220062 | 20.0560 | 20.4685 | 20.2254 | 20.2505 |
| 220063 | 20.9547 | 20.3951 | 20.8079 | 20.7132 |
| 220064 | 22.1785 | 22.3260 | 22.7497 | 22.4060 |
| 220065 | 20.1974 | 20.1364 | 20.1424 | 20.1584 |
| 220066 | 20.4586 | 20.7826 | 23.4477 | 21.6604 |
| 220067 | 25.7414 | 26.4443 | 27.5405 | 26.5452 |
| 220068 | 6.4548 | * | * | 6.4548 |
| 220070 | 19.7678 | 19.7528 | 20.9128 | 20.1099 |
| 220071 | 24.6508 | 25.6184 | 27.4151 | 25.8715 |
| 220073 | 25.8680 | 25.6025 | 26.1328 | 25.8683 |
| 220074 | 24.0523 | 25.6390 | 24.3057 | 24.7411 |
| 220075 | 21.5418 | 22.8057 | 22.5329 | 22.2794 |
| 220076 | 24.7783 | 22.6668 | 23.2795 | 23.6106 |
| 220077 | 24.8019 | 25.2646 | 26.1545 | 25.3933 |
| 220079 | 21.0090 | 22.6256 | 22.0769 | 21.8560 |
| 220080 | 20.5007 | 21.5238 | 22.1971 | 21.3825 |
| 220081 | 25.3370 | 29.1726 | 29.6682 | 28.0686 |
| 220082 | 20.0175 | 21.6726 | 22.1453 | 21.2140 |
| 220083 | 23.0759 | 23.9156 | 22.5815 | 23.1732 |
| 220084 | 24.6624 | 23.6641 | 25.3761 | 24.5459 |
| 220086 | 30.4649 | 23.8705 | 26.7778 | 26.4452 |
| 220088 | 23.3783 | 22.9067 | 23.4258 | 23.2384 |
| 220089 | 21.7884 | 23.0965 | 25.4106 | 23.3099 |
| 220090 | 21.6353 | 22.0041 | 23.3049 | 22.2774 |
| 220092 | 17.0409 | 18.5239 | 24.7905 | 19.4783 |
| 220094 | 21.9853 | * | * | 21.9853 |
| 220095 | 21.4468 | 21.4831 | 21.7851 | 21.5735 |
| 220098 | 20.8596 | 21.5906 | 23.1547 | 21.8533 |
| 220100 | 25.3484 | 25.7077 | 27.5841 | 26.2007 |
| 220101 | 24.3260 | 25.9204 | 27.0711 | 25.7662 |
| 220104 | 27.5297 | 28.0021 | 28.7258 | 28.0695 |
| 220105 | 21.6873 | 21.4129 | 21.9185 | 21.6684 |
| 220106 | 24.5518 | 25.6577 | 25.9277 | 25.3659 |
| 220107 | 20.2719 | * | * | 20.2719 |
| 220108 | 22.6372 | 21.9115 | 23.4975 | 22.6709 |
| 220110 | 29.1927 | 28.7071 | 29.1648 | 29.0217 |
| 220111 | 23.0475 | 23.8066 | 24.7510 | 23.8707 |
| 220116 | 24.9744 | 26.1662 | 32.0049 | 27.4579 |
| 220118 | 30.5213 | * | * | 30.5213 |
| 220119 | 22.8586 | 23.3216 | 23.8785 | 23.3181 |
| 220123 | 27.3063 | 25.8994 | 32.4678 | 28.6276 |
| 220126 | 20.9557 | 22.5218 | 23.6045 | 22.3000 |
| 220128 | 20.5636 | * | * | 20.5636 |
| 220133 | 35.2747 | 25.4596 | 29.3911 | 30.0324 |
| 220135 | 25.0798 | 25.6522 | 28.3648 | 26.3313 |
| 220153 | 23.8981 | 22.9592 | * | 23.4152 |
| 220154 | 22.1261 | 22.4770 | 21.1563 | 22.0118 |
| 220163 | 27.3527 | 29.1143 | 29.2299 | 28.5578 |
| 220171 | 23.4340 | 24.5553 | 24.9261 | 24.3151 |
| 230001 | 19.2015 | 19.8020 | 20.0438 | 19.6841 |
| 230002 | 21.9058 | 22.7991 | 23.0439 | 22.5920 |
| 230003 | 19.6118 | 19.8420 | 21.2215 | 20.2501 |
| 230004 | 22.0310 | 23.1036 | 20.5005 | 21.8004 |
| 230005 | 19.4040 | 18.5644 | 17.0943 | 18.3438 |
| 230006 | 18.4681 | 19.1041 | 20.4978 | 19.3271 |
| 230007 | 19.4339 | 15.5538 | * | 18.1334 |
| 230012 | 18.6663 | 15.0803 | * | 16.5807 |
| 230013 | 20.6322 | 20.8018 | 22.2211 | 21.1847 |
| 230015 | 20.4264 | 20.1104 | 20.6464 | 20.3967 |
| 230017 | 20.3975 | 22.2822 | 22.9755 | 21.8495 |
| 230019 | 21.3222 | 22.2622 | 23.6674 | 22.4892 |
| 230020 | 21.3206 | 22.1280 | 21.8526 | 21.7774 |
| 230021 | 18.5670 | 18.9636 | 19.8256 | 19.1973 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 230022 | 19.7598 | 18.8006 | 21.9129 | 20.1618 |
| 230024 | 27.9551 | 23.7326 | 24.9664 | 25.4314 |
| 230027 | 18.0285 | 14.6950 | 19.6393 | 17.2624 |
| 230029 | 21.0636 | 19.4911 | 22.1782 | 20.9312 |
| 230030 | 17.7040 | 18.3916 | 18.6406 | 18.2548 |
| 230031 | 17.5352 | 19.3162 | 19.9465 | 18.8845 |
| 230032 | 20.6821 | 21.8845 | 24.8930 | 22.4347 |
| 230034 | 17.2302 | 19.0473 | 19.4366 | 18.6363 |
| 230035 | 17.5607 | 17.5109 | 17.7490 | 17.6051 |
| 230036 | 21.7565 | 23.2119 | 23.8398 | 22.9390 |
| 230037 | 19.0688 | 20.4747 | 23.2751 | 20.8659 |
| 230038 | 23.3876 | 23.5251 | 21.9692 | 22.9521 |
| 230040 | 20.3897 | 21.4393 | 20.7841 | 20.8605 |
| 230041 | 19.0278 | 20.3131 | 21.7364 | 20.3273 |
| 230042 | 19.4937 | 22.1043 | 21.3870 | 21.0005 |
| 230046 | 25.9482 | 25.5696 | 25.3206 | 25.6107 |
| 230047 | 20.6379 | 21.5381 | 22.3595 | 21.5205 |
| 230053 | 22.1781 | 25.4968 | 26.8917 | 24.7553 |
| 230054 | 19.5427 | 20.6963 | 20.8014 | 20.3482 |
| 230055 | 19.8381 | 20.7932 | 20.8492 | 20.4732 |
| 230056 | 16.4101 | 16.0766 | 17.8091 | 16.7213 |
| 230058 | 18.2349 | 20.4165 | 21.0303 | 19.9623 |
| 230059 | 19.5098 | 19.9240 | 20.7092 | 20.0517 |
| 230060 | 17.8716 | 19.8021 | 19.8987 | 19.1871 |
| 230062 | 16.2952 | 17.1540 | 18.8039 | 17.3634 |
| 230063 | 20.2211 | 20.4171 | * | 20.3143 |
| 230065 | 21.1507 | 22.3459 | 22.7416 | 22.2057 |
| 230066 | 21.5116 | 22.1768 | 23.0475 | 22.2618 |
| 230069 | 21.7909 | 23.2076 | 24.2470 | 23.0592 |
| 230070 | 20.0645 | 20.2505 | 21.5666 | 20.8098 |
| 230071 | 22.1556 | 22.9052 | 23.1337 | 22.7304 |
| 230072 | 20.4308 | 20.6944 | 20.4456 | 20.5245 |
| 230075 | 19.4316 | 20.0545 | 22.5866 | 20.6203 |
| 230076 | 23.8201 | 24.4547 | 24.7010 | 24.2886 |
| 230077 | 20.3937 | 21.0178 | 20.2823 | 20.5602 |
| 230078 | 16.2486 | 17.5577 | 17.9868 | 17.2435 |
| 230080 | 18.9084 | 19.7687 | 20.2104 | 19.6745 |
| 230081 | 17.9510 | 19.0345 | 19.0199 | 18.6644 |
| 230082 | 17.7417 | 18.2992 | 19.0419 | 18.3501 |
| 230085 | 17.5447 | 20.2096 | 23.4996 | 20.3924 |
| 230086 | 16.9754 | 18.9420 | 20.1730 | 18.6767 |
| 230087 | 15.7694 | 18.9034 | 19.9700 | 18.0112 |
| 230089 | 21.3914 | 23.9100 | 22.6994 | 22.6194 |
| 230092 | 18.9567 | 20.0145 | 20.7738 | 19.9304 |
| 230093 | 20.1928 | 20.4655 | 20.6314 | 20.4325 |
| 230095 | 16.7830 | 17.3313 | 17.6444 | 17.2565 |
| 230096 | 22.5613 | 22.8410 | 22.7785 | 22.7256 |
| 230097 | 20.0960 | 21.2854 | 21.1254 | 20.8481 |
| 230099 | 20.2529 | 21.1933 | 21.7513 | 21.0709 |
| 230100 | 13.1107 | 17.1336 | 17.3842 | 16.0298 |
| 230101 | 18.6098 | 20.0932 | 20.5315 | 19.7445 |
| 230103 | 19.6014 | 22.7696 | 11.3429 | 17.7532 |
| 230104 | 23.4703 | 23.1457 | 24.1238 | 23.5809 |
| 230105 | 20.8765 | 21.5210 | 22.6098 | 21.6727 |
| 230106 | 18.3508 | 20.7997 | 21.6825 | 20.2936 |
| 230107 | 14.6673 | 16.5966 | 17.1386 | 15.9949 |
| 230108 | 17.4231 | 18.8631 | 20.3437 | 18.8600 |
| 230110 | 17.8017 | 18.9825 | 19.7262 | 18.8384 |
| 230113 | 11.1676 | 14.9411 | * | 12.8926 |
| 230115 | 16.4728 | 18.4050 | 19.6281 | 18.1783 |
| 230116 | 16.3563 | 16.5419 | 14.5692 | 15.7763 |
| 230117 | 23.9389 | 25.9318 | 25.6797 | 25.1927 |
| 230118 | 21.7089 | 21.3028 | 20.6797 | 21.2068 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 230119 | 23.9568 | 21.1918 | 22.6555 | 22.5908 |
| 230120 | 19.6400 | 18.5264 | 20.3306 | 19.4421 |
| 230121 | 20.0786 | 20.3158 | 21.3342 | 20.5789 |
| 230122 | 18.0903 | 20.9078 | * | 19.5648 |
| 230124 | 18.8938 | 20.3608 | 18.9981 | 19.3961 |
| 230125 | 15.3497 | * | * | 15.3497 |
| 230128 | 23.5787 | 24.9081 | 24.0724 | 24.1436 |
| 230130 | 22.5204 | 23.5170 | 22.1775 | 22.7280 |
| 230132 | 26.1727 | 26.6386 | 26.1946 | 26.3381 |
| 230133 | 17.5688 | 17.6894 | 17.1058 | 17.4473 |
| 230134 | 15.3248 | * | * | 15.3248 |
| 230135 | 22.7401 | 22.5258 | 20.5637 | 22.0738 |
| 230137 | 18.3431 | 19.1813 | * | 18.7522 |
| 230141 | 23.0496 | 22.1299 | 22.4570 | 22.5592 |
| 230142 | 20.1242 | 22.2940 | 23.5621 | 21.8277 |
| 230143 | 16.4468 | 16.3043 | 16.7948 | 16.5112 |
| 230144 | 20.9906 | 22.1108 | 23.4237 | 22.1285 |
| 230145 | 16.5986 | 20.2542 | 19.2638 | 18.8354 |
| 230146 | 18.6293 | 20.5044 | 21.2260 | 20.1486 |
| 230147 | 20.5144 | 21.8496 | 23.2755 | 21.8616 |
| 230149 | 14.1740 | 20.7691 | 18.8005 | 17.7545 |
| 230151 | 20.8884 | 22.1713 | 23.3967 | 22.0865 |
| 230153 | 17.3280 | 19.5633 | 18.7403 | 18.5291 |
| 230154 | 14.5846 | 15.4456 | 15.4362 | 15.1635 |
| 230155 | 16.9857 | 17.2076 | 20.5409 | 18.1875 |
| 230156 | 23.6126 | 24.7587 | 25.6228 | 24.6740 |
| 230157 | 19.7197 | 20.3667 | 17.3571 | 19.2380 |
| 230159 | 18.8426 | 20.0749 | * | 19.3914 |
| 230162 | 17.7689 | 21.4636 | 21.7148 | 20.3064 |
| 230165 | 23.3147 | 23.0106 | 23.8881 | 23.4094 |
| 230167 | 20.3210 | 21.5048 | 22.9745 | 21.5685 |
| 230169 | 22.8606 | 23.0652 | 24.3874 | 23.4345 |
| 230171 | 14.9595 | 13.3863 | 17.1282 | 15.0778 |
| 230172 | 20.2191 | 20.6417 | 21.4675 | 20.7898 |
| 230174 | 20.8542 | 23.0272 | 22.7304 | 22.1820 |
| 230175 | 21.8097 | 16.8909 | * | 19.0428 |
| 230176 | 21.8618 | 22.7772 | 23.8204 | 22.8229 |
| 230178 | 16.0818 | 16.9156 | 17.3030 | 16.7485 |
| 230180 | 15.4837 | 15.8769 | 18.5744 | 16.6297 |
| 230184 | 17.2928 | 19.0604 | 19.7717 | 18.6605 |
| 230186 | * | 19.5337 | 15.7837 | 17.6806 |
| 230188 | 15.5563 | 15.7112 | 16.2975 | 15.8821 |
| 230189 | 15.9089 | 16.6838 | 17.9218 | 16.8493 |
| 230190 | 23.7134 | 26.8196 | 26.4687 | 25.7543 |
| 230191 | 17.1221 | 19.0013 | 18.4861 | 18.1647 |
| 230193 | 20.1805 | 19.7066 | 19.8287 | 19.9318 |
| 230195 | 22.3745 | 21.7775 | 22.9228 | 22.3732 |
| 230197 | 21.6184 | 24.0184 | 24.0854 | 23.1281 |
| 230199 | 18.4012 | 19.4451 | 20.6580 | 19.5586 |
| 230201 | 15.3206 | 17.2141 | 18.0787 | 16.9556 |
| 230204 | 22.9506 | 25.4181 | 23.4966 | 23.9387 |
| 230205 | 13.8861 | 14.3788 | 15.9314 | 14.6555 |
| 230207 | 20.3538 | 20.6375 | 21.2483 | 20.7256 |
| 230208 | 17.1501 | 16.0733 | 16.7454 | 16.6668 |
| 230211 | 17.5087 | 18.6744 | 21.8581 | 19.0214 |
| 230212 | 22.1370 | 23.3021 | 24.2611 | 23.2193 |
| 230213 | 15.3159 | 15.1908 | 15.5469 | 15.3407 |
| 230216 | 19.5921 | 20.3359 | 21.0710 | 20.3422 |
| 230217 | 20.9510 | 21.2707 | 22.2698 | 21.4978 |
| 230219 | 20.7018 | 19.1549 | 20.0442 | 19.9745 |
| 230221 | 21.5000 | * | * | 21.5000 |
| 230222 | 20.8430 | 22.1785 | 21.9711 | 21.6725 |
| 230223 | 21.4990 | 21.1528 | 22.6887 | 21.7715 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 230227 | 21.3801 | 23.7259 | 22.3155 | 22.4395 |
| 230230 | 22.5346 | 22.2385 | 22.3097 | 22.3587 |
| 230232 | 12.6373 | * | * | 12.6373 |
| 230235 | 15.9466 | 16.8684 | 17.7197 | 16.8275 |
| 230236 | 23.2178 | 24.3835 | 25.9676 | 24.5556 |
| 230239 | 19.2349 | 18.0942 | 17.8168 | 18.3625 |
| 230241 | 18.8451 | 19.1000 | 20.7297 | 19.5624 |
| 230244 | 21.0758 | 21.7413 | 22.2697 | 21.6892 |
| 230253 | 21.9497 | 20.5945 | 21.0433 | 21.1989 |
| 230254 | 21.2786 | 21.9402 | 22.6335 | 21.9383 |
| 230257 | 20.4721 | 19.6982 | 21.3880 | 20.5021 |
| 230259 | 21.1519 | 22.2393 | 22.3969 | 21.9147 |
| 230264 | 15.1818 | 17.1319 | 17.4864 | 16.5360 |
| 230269 | 22.8138 | 23.3105 | 24.0992 | 23.4229 |
| 230270 | 20.0803 | 22.6187 | 22.5985 | 21.6440 |
| 230273 | 23.4000 | 22.9199 | 22.8715 | 23.0744 |
| 230275 | 17.5975 | 17.7487 | 20.8985 | 18.2554 |
| 230276 | 18.5750 | 21.3722 | 25.8709 | 21.5415 |
| 230277 | 22.5012 | 23.1456 | 23.9771 | 23.2364 |
| 230278 | 16.6645 | 18.2110 | * | 17.3814 |
| 230279 | 16.0437 | 17.6973 | 17.8074 | 17.2147 |
| 230280 | 14.2249 | 15.6654 | 18.3497 | 15.8025 |
| 230283 | * | 27.9480 | 22.5082 | 24.9202 |
| 240001 | 22.8480 | 24.6207 | 25.6936 | 24.3586 |
| 240002 | 23.0240 | 22.7981 | 23.2307 | 23.0178 |
| 240004 | 23.9195 | 25.1908 | 24.4030 | 24.5010 |
| 240005 | 16.9775 | 17.9563 | 20.3193 | 18.3770 |
| 240006 | 27.1133 | 25.1602 | 23.0715 | 24.9568 |
| 240007 | 16.9802 | 17.7625 | 19.0850 | 17.9138 |
| 240008 | 21.8068 | 20.2158 | 23.3783 | 21.6628 |
| 240009 | 16.6910 | 16.8965 | 17.1187 | 16.9211 |
| 240010 | 23.6323 | 23.6477 | 25.4752 | 24.2587 |
| 240011 | 18.9559 | 20.5192 | 21.5875 | 20.3298 |
| 240013 | 18.9705 | 20.3282 | 21.7544 | 20.2656 |
| 240014 | 21.8560 | 23.0025 | 24.2610 | 23.0452 |
| 240016 | 19.8624 | 20.4017 | 22.2011 | 20.8274 |
| 240017 | 17.2325 | 18.3585 | 18.9272 | 18.1627 |
| 240018 | 19.0671 | 20.8501 | 18.4268 | 19.4219 |
| 240019 | 20.9869 | 22.1501 | 23.1477 | 22.1062 |
| 240020 | 19.5727 | 21.1937 | 20.8849 | 20.5389 |
| 240021 | 17.3968 | 18.7515 | 20.1457 | 18.6569 |
| 240022 | 19.1554 | 21.7889 | 21.3234 | 20.7594 |
| 240023 | 20.3923 | 21.5087 | 22.8224 | 21.4999 |
| 240025 | 17.2464 | 18.8345 | 20.0308 | 18.7384 |
| 240027 | 16.2531 | 19.1017 | 16.7758 | 17.3367 |
| 240028 | 19.3781 | 19.7918 | 25.1934 | 21.5071 |
| 240029 | 17.9880 | 21.1329 | 20.0164 | 19.6781 |
| 240030 | 18.4358 | 18.8547 | 20.1653 | 19.1669 |
| 240031 | 18.0652 | 18.1566 | 19.3983 | 18.5009 |
| 240036 | 20.3270 | 22.2460 | 22.1721 | 21.6421 |
| 240037 | 18.4564 | 19.2345 | 20.1195 | 19.3188 |
| 240038 | 26.3539 | 25.3061 | 24.3957 | 25.3169 |
| 240040 | 19.9022 | 20.4813 | 23.1352 | 21.0482 |
| 240041 | 19.2127 | 19.2864 | 21.8655 | 20.0389 |
| 240043 | 17.3064 | 17.7335 | 16.9859 | 17.3013 |
| 240044 | 18.9217 | 18.8411 | 20.3339 | 19.3394 |
| 240045 | 20.9873 | 21.1396 | 24.1557 | 22.0716 |
| 240047 | 21.8576 | 22.6152 | 23.8098 | 22.7467 |
| 240048 | 23.3110 | * | * | 23.3110 |
| 240049 | 22.1345 | * | * | 22.1345 |
| 240050 | 24.5027 | 25.2983 | 21.6499 | 22.6550 |
| 240051 | 18.2287 | 19.9195 | 22.5855 | 20.1307 |
| 240052 | 19.2190 | 20.7749 | * | 19.9948 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 240053 | 21.1987 | 22.9611 | 23.8693 | 22.7802 |
| 240056 | 22.2927 | 23.4226 | 23.7139 | 23.1375 |
| 240057 | 23.2377 | 24.2159 | 24.8686 | 24.1392 |
| 240058 | 14.9141 | 14.9697 | 18.4009 | 15.9713 |
| 240059 | 21.9575 | 23.6215 | 23.7808 | 23.1092 |
| 240061 | 25.5581 | 27.2603 | 25.9951 | 26.2655 |
| 240063 | 23.5426 | 23.7866 | 24.4031 | 23.9101 |
| 240064 | 20.7602 | 23.2860 | 22.8578 | 22.2645 |
| 240065 | 12.5547 | 12.7867 | 14.8734 | 13.4307 |
| 240066 | 22.0542 | 23.0698 | 24.1143 | 23.1023 |
| 240069 | 19.1834 | 19.8282 | 21.7991 | 20.2573 |
| 240071 | 19.1913 | 20.2101 | 21.2463 | 20.2337 |
| 240072 | 18.0015 | 21.1824 | 20.9529 | 20.0007 |
| 240073 | 15.6318 | 16.0840 | 17.3559 | 16.3592 |
| 240075 | 21.1934 | 21.2654 | 21.3357 | 21.2661 |
| 240076 | 21.0702 | 21.8795 | 22.3280 | 21.7859 |
| 240077 | 14.9493 | 15.3794 | 20.3445 | 16.8827 |
| 240078 | 22.7122 | 23.9150 | 25.1082 | 23.9382 |
| 240079 | 17.8206 | 18.4338 | 18.8345 | 18.3648 |
| 240080 | 23.7286 | 24.3399 | 25.5619 | 24.7160 |
| 240082 | 18.0272 | 18.3555 | 18.7995 | 18.3952 |
| 240083 | 19.2922 | 19.7637 | 21.0317 | 20.0094 |
| 240084 | 19.6078 | 19.4739 | 21.7421 | 20.2965 |
| 240085 | 18.0214 | 22.5736 | 20.9778 | 20.5540 |
| 240086 | 15.3302 | 16.9392 | 18.1401 | 16.9654 |
| 240087 | 17.0624 | 18.8352 | 21.3323 | 19.0315 |
| 240088 | 21.0202 | 21.6858 | 23.1056 | 21.8928 |
| 240089 | 18.4171 | 20.7239 | 21.1989 | 20.0227 |
| 240090 | 18.0490 | 19.2968 | 19.2166 | 18.8331 |
| 240093 | 18.6788 | 18.7092 | 20.2400 | 19.2268 |
| 240094 | 20.5705 | 20.9446 | 22.0247 | 21.2053 |
| 240096 | 18.3365 | 20.1644 | 21.0417 | 19.7961 |
| 240097 | 23.6230 | 24.2662 | 27.9496 | 25.1295 |
| 240098 | 20.6036 | 21.3467 | 24.2296 | 22.0643 |
| 240099 | 14.3759 | 14.4649 | 15.4964 | 14.7485 |
| 240100 | 19.1921 | 20.8302 | 20.8325 | 20.3051 |
| 240101 | 17.7478 | 19.2120 | 19.9837 | 18.9205 |
| 240102 | 15.5644 | 14.6067 | 16.3659 | 15.5008 |
| 240103 | 16.8805 | 19.1540 | 18.7510 | 18.2532 |
| 240104 | 24.0175 | 23.2178 | 23.5351 | 23.5902 |
| 240105 | 14.7904 | 14.3965 | * | 14.6094 |
| 240106 | 23.7818 | 23.5148 | 23.5005 | 23.6022 |
| 240107 | 19.0299 | 20.3983 | 20.9004 | 20.0558 |
| 240108 | 16.4605 | 15.3547 | 18.2427 | 16.5529 |
| 240109 | 13.1537 | 13.5537 | 16.3216 | 14.2359 |
| 240110 | 17.2834 | 19.4828 | 21.0277 | 19.2199 |
| 240111 | 17.0408 | 17.2100 | 17.8617 | 17.3567 |
| 240112 | 15.3246 | 15.8350 | 16.6244 | 15.9308 |
| 240114 | 15.4919 | 16.2505 | 17.3682 | 16.3794 |
| 240115 | 22.1575 | 23.7765 | 23.8675 | 23.3187 |
| 240116 | 15.1757 | 16.6731 | 18.3520 | 16.6014 |
| 240117 | 17.5676 | 18.0636 | 17.9941 | 17.8845 |
| 240119 | 22.4981 | 20.6126 | 21.8289 | 21.5894 |
| 240121 | 21.3747 | 23.4018 | 22.2266 | 22.3266 |
| 240122 | 18.0396 | 19.1811 | 21.2876 | 19.5090 |
| 240123 | 15.5968 | 16.5098 | 18.3941 | 16.7420 |
| 240124 | 19.0505 | 19.4400 | 20.4728 | 19.6473 |
| 240125 | 13.1505 | 12.3627 | 14.9708 | 13.5694 |
| 240127 | 14.7670 | 15.8966 | 17.9724 | 16.1476 |
| 240128 | 16.0759 | 17.2513 | 16.3608 | 16.5520 |
| 240129 | 15.4226 | 14.4212 | 16.5209 | 15.4258 |
| 240130 | 15.6477 | 14.9399 | 16.4271 | 15.6650 |
| 240132 | 24.4998 | 23.0669 | 23.1452 | 23.5239 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 240133 | 18.5216 | 19.2126 | 19.5293 | 19.1081 |
| 240135 | 13.6014 | 14.3069 | 15.7015 | 14.4270 |
| 240137 | 19.1770 | 20.3750 | 21.5073 | 20.3195 |
| 240138 | 13.7359 | 15.2062 | 16.7332 | 15.1922 |
| 240139 | 17.0163 | 20.8053 | 20.5496 | 19.6213 |
| 240141 | 21.9909 | 23.8066 | 23.1009 | 22.9648 |
| 240142 | 20.6139 | 25.2770 | 29.2238 | 24.5024 |
| 240143 | 14.2790 | 16.6172 | 20.4266 | 16.9078 |
| 240144 | 15.8710 | 18.2604 | 21.4469 | 18.2664 |
| 240145 | 14.9997 | 17.2778 | 19.0689 | 17.4197 |
| 240146 | 16.7496 | 16.0652 | 16.5412 | 16.4544 |
| 240148 | 11.3388 | 18.8779 | 19.5204 | 16.6060 |
| 240150 | 12.8255 | 13.8786 | 20.8331 | 15.4453 |
| 240152 | 20.2020 | 21.1678 | 22.4744 | 21.2973 |
| 240153 | 15.6079 | 16.5412 | 19.3336 | 17.0363 |
| 240154 | 17.0625 | 17.5769 | 21.5052 | 18.6158 |
| 240155 | 20.4189 | 19.8762 | 20.9385 | 20.4180 |
| 240157 | 14.6914 | 17.4168 | 13.7309 | 15.3007 |
| 240160 | 16.6034 | 15.9492 | 15.9014 | 16.1454 |
| 240161 | 15.4160 | 15.7996 | 16.8809 | 15.9681 |
| 240162 | 19.0404 | 16.6292 | 19.1542 | 18.1964 |
| 240163 | 17.8714 | 18.8320 | 20.4760 | 18.9698 |
| 240166 | 16.3907 | 17.3233 | 19.4131 | 17.7688 |
| 240169 | 18.6155 | 16.6725 | 16.3958 | 17.2174 |
| 240170 | 17.6501 | 18.8762 | 20.3779 | 18.9004 |
| 240171 | 16.7237 | 17.2886 | 18.5172 | 17.5402 |
| 240172 | 16.0711 | 18.2852 | 20.8606 | 18.2323 |
| 240173 | 16.7411 | 17.2655 | 18.5187 | 17.5027 |
| 240179 | 16.6464 | 17.5116 | 20.4004 | 18.1225 |
| 240184 | 14.3996 | 15.3793 | 16.8917 | 15.4746 |
| 240187 | 17.5154 | 19.9230 | 21.2736 | 19.5789 |
| 240193 | 16.3004 | 17.8226 | 18.4664 | 17.4827 |
| 240196 | 23.2666 | 24.3472 | 25.3479 | 24.3358 |
| 240200 | 14.7295 | 14.3415 | 14.9076 | 14.6539 |
| 240207 | 23.3339 | 24.1127 | 25.2814 | 24.2879 |
| 240210 | 23.8391 | 24.2218 | 24.5664 | 24.2274 |
| 240211 | 20.5548 | 19.7399 | 30.6260 | 22.1746 |
| 250001 | 18.1407 | 18.4233 | 19.2756 | 18.6319 |
| 250002 | 15.6036 | 17.2501 | 18.6938 | 17.1218 |
| 250003 | 15.6560 | 17.6539 | 16.7570 | 16.6622 |
| 250004 | 17.1177 | 17.8868 | 18.3860 | 17.7913 |
| 250005 | 12.0032 | 12.5993 | 12.5834 | 12.3909 |
| 250006 | 15.7036 | 16.9048 | 17.5192 | 16.6995 |
| 250007 | 19.1555 | 19.2913 | 19.7562 | 19.3984 |
| 250008 | 13.3179 | 14.1760 | 15.8506 | 14.4224 |
| 250009 | 16.1847 | 18.5610 | 17.7283 | 17.5396 |
| 250010 | 13.3372 | 13.3905 | 14.6101 | 13.7324 |
| 250012 | 18.4756 | 14.1623 | 16.7579 | 16.4800 |
| 250015 | 11.0747 | 13.5274 | 11.7249 | 11.9737 |
| 250017 | 17.3006 | 17.9410 | 20.5976 | 18.5334 |
| 250018 | 13.4707 | 11.9311 | 13.1687 | 12.7895 |
| 250019 | 17.1501 | 16.7425 | 18.0956 | 17.3536 |
| 250020 | 14.0618 | 13.4476 | 16.2698 | 14.4562 |
| 250021 | 9.0772 | 9.4318 | 10.5844 | 9.6552 |
| 250023 | 13.5440 | 13.9116 | 12.3434 | 13.2963 |
| 250024 | 11.5940 | 12.7127 | 12.9899 | 12.4525 |
| 250025 | 17.8890 | 19.0390 | 20.3625 | 19.2022 |
| 250027 | 12.4241 | 14.9519 | 14.5445 | 13.9032 |
| 250029 | 14.8456 | 16.4834 | 16.0682 | 15.8412 |
| 250030 | 13.6277 | 17.3636 | 26.6173 | 19.2750 |
| 250031 | 18.7663 | 17.9715 | 18.3825 | 18.3676 |
| 250032 | 17.2983 | 17.1339 | 17.5957 | 17.3467 |
| 250033 | 15.7646 | 17.8257 | 15.0941 | 16.2509 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 250034 | 18.1269 | 16.6988 | 17.0399 | 17.2230 |
| 250035 | 17.4148 | 15.2353 | 16.8349 | 16.3942 |
| 250036 | 13.7928 | 15.8445 | 16.1913 | 15.3676 |
| 250037 | 10.3212 | 15.4325 | 12.7156 | 12.4979 |
| 250038 | 13.6207 | 16.8454 | 17.7019 | 16.0182 |
| 250039 | 16.5105 | 14.1556 | 15.1409 | 15.2552 |
| 250040 | 15.6367 | 17.3430 | 18.3364 | 17.1495 |
| 250042 | 16.4728 | 16.3867 | 17.6531 | 16.8406 |
| 250043 | 13.6492 | 16.0729 | 16.6500 | 15.4718 |
| 250044 | 16.7462 | 16.1218 | 16.7321 | 16.5323 |
| 250045 | 19.4788 | 22.0839 | 21.8988 | 21.2480 |
| 250047 | 12.0953 | 13.3706 | 14.7461 | 13.3242 |
| 250048 | 15.7073 | 16.8932 | 17.6649 | 16.7793 |
| 250049 | 10.7578 | 11.6715 | 12.1635 | 11.5642 |
| 250050 | 13.9220 | 14.3949 | 15.1159 | 14.4819 |
| 250051 | 9.6017 | 9.3464 | 10.4900 | 9.8032 |
| 250057 | 14.2863 | 15.9237 | 16.1838 | 15.4582 |
| 250058 | 15.4206 | 15.5327 | 15.7197 | 15.5555 |
| 250059 | 14.2997 | 16.2845 | 16.6494 | 15.7755 |
| 250060 | 7.9882 | 13.0301 | 16.1804 | 11.2768 |
| 250061 | 13.9655 | 11.0308 | 11.5108 | 11.9846 |
| 250063 | 14.9743 | 13.2540 | 13.3092 | 13.7869 |
| 250065 | 12.6803 | 12.8853 | 13.6904 | 13.0682 |
| 250066 | 14.3274 | 15.6760 | 16.1742 | 15.4025 |
| 250067 | 15.2871 | 16.4120 | 16.8522 | 16.2039 |
| 250068 | 11.4272 | 13.6768 | 13.4127 | 12.8087 |
| 250069 | 15.7653 | 17.8960 | 16.8980 | 16.8834 |
| 250071 | 11.2079 | 14.3781 | 12.3488 | 12.5425 |
| 250072 | 16.9263 | 18.2218 | 18.9487 | 18.0776 |
| 250076 | * | 10.5098 | * | 10.5098 |
| 250077 | 11.4135 | 12.2564 | 13.7404 | 12.5026 |
| 250078 | 15.4571 | 15.6336 | 15.9739 | 15.6895 |
| 250079 | 19.0587 | 16.2712 | 16.5835 | 17.1998 |
| 250081 | 16.1412 | 17.3325 | 19.0358 | 17.4600 |
| 250082 | 14.0249 | 16.0975 | 17.1427 | 15.7611 |
| 250083 | 9.2019 | 14.2634 | 16.6065 | 13.1746 |
| 250084 | 19.7390 | 17.0189 | 20.6429 | 19.0165 |
| 250085 | 13.8487 | 14.3797 | 15.4477 | 14.5716 |
| 250088 | 16.7514 | 17.8674 | 18.2736 | 17.6409 |
| 250089 | 13.0481 | 13.4238 | 14.3027 | 13.5884 |
| 250093 | 15.0918 | 15.2044 | 16.1506 | 15.4926 |
| 250094 | 17.8539 | 18.0852 | 18.5063 | 18.1422 |
| 250095 | 16.3574 | 17.0039 | 17.4217 | 16.9079 |
| 250096 | 17.0713 | 19.0688 | 19.0584 | 18.3546 |
| 250097 | 18.4099 | 16.9905 | 15.5741 | 16.9320 |
| 250098 | 14.3017 | 13.1341 | 18.3874 | 15.0909 |
| 250099 | 14.4142 | 14.8528 | 15.1265 | 14.8018 |
| 250100 | 16.6033 | 17.1682 | 17.8688 | 17.2128 |
| 250101 | 16.3083 | 18.4685 | 17.7194 | 17.5079 |
| 250102 | 20.0190 | 23.9329 | 18.9348 | 20.8793 |
| 250104 | 17.5421 | 18.2502 | 18.7651 | 18.1832 |
| 250105 | 14.5986 | 14.5401 | 15.5133 | 14.8921 |
| 250107 | 13.6296 | 15.1496 | 15.0737 | 14.6455 |
| 250109 | 14.5496 | 22.1551 | 21.3867 | 18.8951 |
| 250112 | 14.2023 | 15.5610 | 16.3640 | 15.3179 |
| 250117 | 14.5171 | 16.1225 | 16.9787 | 15.9014 |
| 250119 | 12.7379 | 15.2199 | 16.1218 | 14.6728 |
| 250120 | 14.4126 | 15.3433 | 16.7182 | 15.4420 |
| 250122 | 17.7079 | 18.9417 | 19.2990 | 18.6619 |
| 250123 | 17.4068 | 18.8690 | 18.7863 | 18.3698 |
| 250124 | 12.6677 | 13.1823 | 13.2490 | 13.0310 |
| 250125 | 14.4867 | 20.8895 | 21.2660 | 18.4338 |
| 250126 | 14.7083 | 18.2355 | 21.9101 | 17.8900 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 250128 | 12.9968 | 14.0048 | 16.1418 | 14.4375 |
| 250131 | 10.2765 | 12.6056 | 12.4557 | 11.6657 |
| 250134 | 17.9755 | 17.0671 | 18.5142 | 17.8554 |
| 250136 | 18.0538 | 18.9689 | 21.3497 | 19.3579 |
| 250138 | 17.5999 | 18.4028 | 20.4550 | 18.6918 |
| 250141 | 17.1247 | 19.0113 | 19.6692 | 18.6505 |
| 250145 | 11.4047 | 10.2507 | 11.2120 | 10.9506 |
| 250146 | 13.2763 | 14.4924 | 14.7781 | 14.1955 |
| 250148 | 14.8234 | 18.0980 | 19.4233 | 17.4956 |
| 250149 | 12.9840 | 12.9569 | 15.2318 | 13.7102 |
| 250150 | * | * | 21.8599 | 21.8599 |
| 260001 | 17.5520 | 18.0971 | 20.1560 | 18.5941 |
| 260002 | 20.5878 | 22.1183 | 21.6597 | 21.4585 |
| 260003 | 14.3537 | 14.6553 | 15.4482 | 14.8108 |
| 260004 | 13.7528 | 13.0133 | 13.7035 | 13.4793 |
| 260005 | 19.7058 | 19.5554 | 23.9681 | 21.0036 |
| 260006 | 18.9408 | 19.7467 | 20.0994 | 19.6144 |
| 260008 | 16.2451 | 13.8495 | 16.8893 | 15.5719 |
| 260009 | 17.9364 | 18.5080 | 18.2863 | 18.2469 |
| 260011 | 18.3378 | 19.1027 | 19.5059 | 18.9819 |
| 260012 | 14.4594 | 14.3645 | 17.1662 | 15.3316 |
| 260013 | 15.5388 | 15.9884 | 16.1825 | 15.8932 |
| 260015 | 21.3327 | 16.5822 | 17.8817 | 18.4578 |
| 260017 | 15.8013 | 16.7916 | 16.9914 | 16.5434 |
| 260018 | 12.2293 | 12.0060 | 12.5301 | 12.2688 |
| 260019 | 23.6727 | 18.6113 | * | 20.6992 |
| 260020 | 21.8585 | 20.5142 | 20.2241 | 20.8205 |
| 260021 | 17.5694 | 22.1017 | 21.6237 | 20.1803 |
| 260022 | 19.3454 | 17.2462 | 17.7772 | 17.8898 |
| 260023 | 15.8235 | 16.4705 | 17.8649 | 16.6827 |
| 260024 | 13.4737 | 15.2356 | 15.7815 | 14.8371 |
| 260025 | 14.9377 | 15.4935 | 17.0965 | 15.8836 |
| 260027 | 21.0084 | 21.2977 | 22.0362 | 21.4252 |
| 260029 | 17.4744 | 19.7484 | 21.1858 | 19.3784 |
| 260030 | 11.2434 | 12.5118 | 11.9215 | 11.8847 |
| 260031 | 18.3039 | 19.4921 | 19.7249 | 19.1438 |
| 260032 | 20.8097 | 20.1988 | 19.6728 | 20.2222 |
| 260034 | 17.8986 | 17.4233 | 20.4902 | 18.5746 |
| 260035 | 12.5886 | 13.1065 | 13.0071 | 12.9052 |
| 260036 | 18.3128 | 16.7430 | 18.8104 | 17.9282 |
| 260039 | 14.1980 | 14.1866 | 14.6644 | 14.3527 |
| 260040 | 15.3853 | 17.3099 | 18.0140 | 16.9033 |
| 260042 | 17.4459 | 18.7567 | 18.7514 | 18.2697 |
| 260044 | 17.1177 | 15.9927 | 15.9206 | 16.3491 |
| 260047 | 17.2768 | 19.0112 | 19.2247 | 18.5386 |
| 260048 | 21.4309 | 20.0885 | 21.0602 | 20.8622 |
| 260050 | 18.7366 | 15.6908 | 16.8520 | 17.0991 |
| 260052 | 17.7502 | 18.0553 | 18.0914 | 17.9657 |
| 260053 | 12.0098 | 15.2236 | 16.5166 | 14.4005 |
| 260054 | 17.3708 | 20.0199 | 20.6242 | 19.2873 |
| 260055 | 13.7961 | 12.0118 | 15.4214 | 13.6790 |
| 260057 | 15.3276 | 17.4636 | 19.7144 | 17.7259 |
| 260059 | 15.7887 | 16.1000 | 17.0546 | 16.3478 |
| 260061 | 15.0099 | 14.7175 | 15.7112 | 15.1405 |
| 260062 | 20.2655 | 20.1477 | 21.3138 | 20.5946 |
| 260063 | 16.8474 | 18.2309 | 18.8973 | 17.9893 |
| 260064 | 16.5033 | 16.5934 | 17.8033 | 16.9429 |
| 260065 | 18.4654 | 19.4382 | 20.0975 | 19.3238 |
| 260066 | 14.4163 | 14.9640 | 15.3460 | 14.8934 |
| 260067 | 12.1588 | 14.2249 | 15.1837 | 13.8617 |
| 260068 | 19.8261 | 20.2418 | 19.4240 | 19.8242 |
| 260070 | 21.6873 | * | 13.9510 | 17.3672 |
| 260073 | 13.0075 | 14.2550 | 15.9182 | 14.4333 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 260074 | 15.4480 | 19.0350 | 19.8915 | 18.1123 |
| 260077 | 18.2594 | 18.6473 | 19.4482 | 18.8035 |
| 260078 | 15.4754 | 15.6381 | 14.9463 | 15.3700 |
| 260079 | 14.8281 | 14.2985 | 16.1453 | 15.0169 |
| 260080 | 12.5631 | 13.5384 | 14.6832 | 13.5392 |
| 260081 | 18.9629 | 21.0151 | 20.3053 | 20.0653 |
| 260082 | 15.7880 | 15.9407 | 15.9858 | 15.9090 |
| 260085 | 19.5153 | 20.4669 | 20.7051 | 20.2110 |
| 260086 | 14.8730 | 14.3164 | 15.2927 | 14.8291 |
| 260091 | 19.6081 | 19.9987 | 21.5464 | 20.5925 |
| 260094 | 15.8705 | 18.0085 | 18.5395 | 17.5281 |
| 260095 | 19.7672 | 19.6944 | 20.7292 | 20.0618 |
| 260096 | 21.7176 | 23.0282 | 22.5972 | 22.4661 |
| 260097 | 15.7899 | 16.5582 | 19.0632 | 17.1704 |
| 260100 | 15.7324 | 15.7047 | 16.6523 | 16.0345 |
| 260102 | 16.3653 | 20.1264 | 20.6361 | 18.8983 |
| 260103 | 17.3541 | 18.5957 | 19.7146 | 18.4987 |
| 260104 | 19.1158 | 21.0138 | 20.3176 | 20.0928 |
| 260105 | 20.8006 | 24.7223 | 24.8181 | 23.3052 |
| 260107 | 18.4618 | 19.8422 | 20.4269 | 19.5069 |
| 260108 | 19.2422 | 19.4609 | 20.0034 | 19.5906 |
| 260109 | 13.4400 | 13.9129 | 14.8181 | 14.0725 |
| 260110 | 16.9952 | 17.8375 | 18.3227 | 17.7209 |
| 260113 | 14.8968 | 14.6756 | 16.2223 | 15.2316 |
| 260115 | 17.8971 | 19.2259 | 17.4698 | 18.2033 |
| 260116 | 14.5715 | 16.2774 | 14.9812 | 15.2548 |
| 260119 | 16.2000 | 16.8836 | 17.2942 | 16.7641 |
| 260120 | 17.1269 | 16.3755 | 16.4904 | 16.6414 |
| 260122 | 14.5390 | 14.9697 | 16.0931 | 15.2238 |
| 260123 | 13.9960 | 14.6444 | 14.6822 | 14.4496 |
| 260127 | 15.9481 | 18.3572 | 18.4026 | 17.5109 |
| 260128 | 11.2705 | 13.0481 | 12.6414 | 12.2813 |
| 260129 | 14.6353 | * | * | 14.6353 |
| 260131 | 19.7491 | 17.7686 | 18.4154 | 18.5978 |
| 260134 | 16.5834 | 16.2832 | 17.5127 | 16.7877 |
| 260137 | 15.2169 | 17.9531 | 19.4697 | 17.5188 |
| 260138 | 21.3885 | 22.6491 | 23.2364 | 22.4440 |
| 260141 | 17.9598 | 19.1580 | 19.1893 | 18.7555 |
| 260142 | 16.0299 | 17.1248 | 17.3084 | 16.7937 |
| 260143 | 11.9389 | 12.7867 | 13.9040 | 12.7859 |
| 260147 | 13.6568 | 14.0778 | 14.7769 | 14.1672 |
| 260148 | 10.3383 | 11.8674 | 11.3524 | 11.2072 |
| 260158 | 12.4020 | 12.3005 | 12.7699 | 12.4966 |
| 260159 | 18.2232 | 20.3177 | 19.7951 | 19.3893 |
| 260160 | 16.1922 | 15.8394 | 16.5792 | 16.2009 |
| 260162 | 20.7103 | 19.5655 | 21.4099 | 20.5728 |
| 260163 | 14.8051 | 16.4245 | 15.8593 | 15.6940 |
| 260164 | 14.3089 | 14.9372 | 15.1211 | 14.8191 |
| 260166 | 19.5343 | 20.1025 | 21.1224 | 20.2675 |
| 260172 | 12.4851 | 15.4163 | 16.0772 | 14.6285 |
| 260173 | 11.9777 | 12.8523 | 14.2090 | 13.1471 |
| 260175 | 16.2940 | 16.9023 | 17.5625 | 16.9246 |
| 260176 | 19.5449 | 26.8712 | 21.6044 | 22.7500 |
| 260177 | 20.7457 | 21.2578 | 21.9014 | 21.3180 |
| 260178 | 21.4080 | 19.6638 | 20.2796 | 20.4480 |
| 260179 | 20.7397 | 21.4906 | 22.7185 | 21.6624 |
| 260180 | 18.5398 | 19.5819 | 18.9881 | 19.0361 |
| 260183 | 20.1940 | 20.0712 | 21.3175 | 20.5306 |
| 260186 | 18.0588 | 19.3238 | 19.6026 | 19.0698 |
| 260188 | 18.5772 | 20.6388 | 22.5060 | 20.5016 |
| 260189 | 10.7518 | 11.3004 | 16.4233 | 12.7425 |
| 260190 | 18.1639 | 18.5168 | 19.3419 | 18.6978 |
| 260191 | 19.3386 | 17.9812 | 18.1604 | 18.4767 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 260193 | 20.5055 | 21.1588 | 20.2577 | 20.6284 |
| 260195 | 15.9518 | 17.7237 | 19.7068 | 17.8042 |
| 260197 | 16.4605 | 19.2840 | 20.5453 | 18.3884 |
| 260198 | 17.6381 | 11.9751 | 19.7552 | 15.6949 |
| 260200 | 18.8755 | 20.5339 | 20.6888 | 20.0233 |
| 260205 | * | 17.6210 | * | 17.6210 |
| 270002 | 17.1866 | 28.9959 | 19.2387 | 20.5385 |
| 270003 | 22.1299 | 22.0995 | 22.5019 | 22.2424 |
| 270004 | 21.3442 | 19.6292 | 19.4834 | 20.1660 |
| 270006 | 16.1872 | 16.0238 | 17.0715 | 16.3653 |
| 270007 | 13.1679 | 11.3143 | 13.8824 | 12.6774 |
| 270009 | 17.7016 | 17.2292 | 20.8238 | 18.5056 |
| 270011 | 19.8229 | 20.2669 | 21.1653 | 20.3748 |
| 270012 | 22.8770 | 19.7346 | 19.7878 | 20.8557 |
| 270013 | 20.4012 | * | * | 20.4012 |
| 270014 | 18.5595 | 19.0872 | 19.9859 | 19.2205 |
| 270016 | 19.7675 | 19.6717 | 18.6149 | 19.4350 |
| 270017 | 19.5798 | 21.0800 | 20.0152 | 20.2382 |
| 270019 | 12.7812 | 18.1099 | 15.4128 | 15.4635 |
| 270021 | 16.6541 | 17.1787 | 16.9457 | 16.9258 |
| 270023 | 20.3641 | 22.2639 | 22.7181 | 21.7139 |
| 270026 | 15.6381 | 17.5102 | 18.0568 | 17.0775 |
| 270027 | 9.7758 | 13.1392 | 17.2091 | 12.8885 |
| 270028 | 17.2132 | 21.1492 | 19.1177 | 19.1160 |
| 270029 | 17.8852 | 16.5666 | 17.3710 | 17.2639 |
| 270032 | 17.0285 | 17.7393 | 18.7811 | 17.8749 |
| 270033 | 16.4554 | 16.9602 | 18.4876 | 17.2764 |
| 270035 | 17.6482 | 16.8295 | 16.4302 | 16.9974 |
| 270036 | 14.0815 | 14.2537 | 16.8552 | 14.8821 |
| 270039 | 15.3501 | 15.9368 | 19.6796 | 16.7774 |
| 270040 | 19.1901 | 18.8145 | 20.1242 | 19.3585 |
| 270041 | 16.7791 | 19.0327 | 25.8153 | 19.7981 |
| 270044 | 13.4559 | 16.7710 | 17.5137 | 15.8620 |
| 270046 | 17.1048 | * | * | 17.1048 |
| 270048 | 15.8403 | 17.0154 | 18.0666 | 16.8972 |
| 270049 | 21.1670 | 22.2444 | 22.2540 | 21.8899 |
| 270050 | 18.0448 | 16.7110 | 19.9356 | 18.1546 |
| 270051 | 18.9468 | 20.2735 | 20.1950 | 19.8100 |
| 270052 | 14.8042 | 14.4773 | 14.7009 | 14.6552 |
| 270057 | 20.0080 | 21.1317 | 20.6714 | 20.6119 |
| 270058 | 14.0669 | 14.7481 | 16.1412 | 14.9510 |
| 270059 | 15.5957 | 14.7530 | 19.1808 | 16.3576 |
| 270060 | 14.0212 | 15.2727 | 20.4148 | 16.5316 |
| 270063 | 14.2287 | 12.6108 | 15.1049 | 13.8837 |
| 270073 | 15.5281 | 14.4569 | 16.1937 | 15.3359 |
| 270079 | 15.0277 | 15.6873 | 16.7048 | 15.7603 |
| 270080 | 14.0437 | 16.3171 | 15.0705 | 15.0926 |
| 270081 | 15.5207 | 15.6262 | 16.7389 | 15.9424 |
| 270082 | 16.1280 | 17.3443 | 23.1245 | 18.7794 |
| 270083 | 20.8231 | 18.4432 | 17.8554 | 18.9597 |
| 270084 | 16.2075 | 16.6243 | 16.2958 | 16.3734 |
| 280001 | 17.8928 | 17.3541 | 18.1831 | 17.7825 |
| 280003 | 21.9957 | 22.3179 | 23.0213 | 22.4564 |
| 280005 | 18.7477 | 19.2405 | 23.6949 | 20.6104 |
| 280009 | 18.7541 | 19.8145 | 20.9643 | 19.8453 |
| 280010 | 16.5417 | 17.4859 | 20.0462 | 17.5272 |
| 280011 | 13.9627 | 15.8573 | 15.9614 | 15.3328 |
| 280012 | 16.4079 | * | * | 16.4079 |
| 280013 | 22.1767 | 22.8063 | 22.5163 | 22.5039 |
| 280014 | 15.2414 | 15.9596 | 16.8368 | 15.9667 |
| 280015 | 14.6353 | 17.0281 | 16.6939 | 16.1405 |
| 280017 | 14.1897 | 14.2059 | 13.9939 | 14.1278 |
| 280018 | 14.8492 | 15.1328 | 15.4496 | 15.1512 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 280020 | 19.3963 | 19.9667 | 21.2467 | 20.2637 |
| 280021 | 16.6949 | 17.1048 | 17.6345 | 17.1389 |
| 280022 | 15.7059 | 16.7179 | 16.8184 | 16.3693 |
| 280023 | 21.2387 | 25.8494 | 22.3433 | 23.0540 |
| 280024 | 13.9115 | 14.2186 | 15.0380 | 14.3613 |
| 280025 | 14.2701 | 15.5850 | 21.4764 | 16.6875 |
| 280026 | 16.0599 | 16.6861 | 16.5851 | 16.4520 |
| 280028 | 15.8871 | 17.3176 | 18.0793 | 17.1201 |
| 280029 | 19.0519 | 23.1292 | 24.4359 | 21.9196 |
| 280030 | 28.7091 | 24.5366 | 24.7723 | 25.8891 |
| 280031 | 13.2242 | 13.5654 | 9.6321 | 12.1542 |
| 280032 | 19.3884 | 18.8964 | 19.1191 | 19.1301 |
| 280033 | 14.9334 | 15.7583 | 17.4745 | 16.1329 |
| 280034 | 15.2821 | * | * | 15.2821 |
| 280035 | 15.3304 | 15.9170 | 16.6872 | 15.8969 |
| 280037 | 16.1684 | 16.7952 | 17.1064 | 16.6926 |
| 280038 | 16.4685 | 17.0878 | 18.2503 | 17.2635 |
| 280039 | 15.1916 | 16.0442 | 16.1587 | 15.8239 |
| 280040 | 18.9717 | 19.5333 | 20.9896 | 19.8846 |
| 280041 | 13.3901 | 16.4083 | 16.5503 | 15.4920 |
| 280042 | 15.3029 | 16.1191 | 16.6239 | 16.0122 |
| 280043 | 15.7858 | 16.6570 | 17.5937 | 16.7160 |
| 280045 | 14.2741 | 16.9048 | 15.7630 | 15.6286 |
| 280046 | 13.7155 | 17.9221 | 17.3214 | 16.1724 |
| 280047 | 18.3743 | 18.3407 | 17.4735 | 18.0424 |
| 280048 | 14.0702 | 15.8723 | 15.8100 | 15.1939 |
| 280049 | 15.6343 | 18.3605 | 18.4365 | 17.4677 |
| 280050 | 15.3413 | 16.6432 | 20.0379 | 17.6064 |
| 280051 | 15.8504 | 15.6336 | 17.1942 | 16.1502 |
| 280052 | 13.6489 | 14.0819 | 14.1201 | 13.9629 |
| 280054 | 17.5819 | 18.7992 | 18.7575 | 18.3765 |
| 280055 | 12.9933 | 13.5667 | 13.8129 | 13.4587 |
| 280056 | 14.0151 | 12.6475 | 15.6135 | 14.0018 |
| 280057 | 15.7623 | 18.0454 | 20.0686 | 17.7576 |
| 280058 | 17.8798 | 19.6752 | 21.4868 | 19.6876 |
| 280060 | 28.6047 | 19.7527 | 20.7022 | 22.2434 |
| 280061 | 17.9511 | 17.1629 | 18.6370 | 17.9240 |
| 280062 | 13.6738 | 14.4896 | 15.6018 | 14.6170 |
| 280064 | 15.5092 | 16.2977 | 16.8330 | 16.2046 |
| 280065 | 18.5327 | 19.2932 | 20.7370 | 19.5513 |
| 280066 | 11.6416 | 11.6621 | 11.7207 | 11.6766 |
| 280068 | 10.1327 | 9.4943 | 10.5987 | 10.0463 |
| 280070 | 13.7353 | 17.7400 | 22.6201 | 17.5276 |
| 280073 | 17.0583 | 17.4244 | 17.7698 | 17.4266 |
| 280074 | 15.2182 | 16.4310 | 17.3143 | 16.2521 |
| 280075 | 13.7875 | 15.5327 | 13.2230 | 14.1041 |
| 280076 | 13.9203 | 14.8469 | 16.7488 | 15.0947 |
| 280077 | 19.0145 | 19.2068 | 20.0148 | 19.4096 |
| 280079 | 9.9132 | 10.4540 | 16.6117 | 11.4307 |
| 280080 | 14.3528 | 15.3308 | 16.9487 | 15.6285 |
| 280081 | 20.9196 | 21.0771 | 20.9606 | 20.9873 |
| 280082 | 13.1250 | 14.3399 | 14.6173 | 14.0723 |
| 280083 | 17.5544 | 18.2992 | 21.5336 | 19.2134 |
| 280084 | 11.6868 | 12.5836 | 13.6536 | 12.6157 |
| 280085 | 21.5793 | 20.4302 | 20.4825 | 20.9817 |
| 280088 | 22.1147 | 20.2961 | * | 21.2560 |
| 280089 | 17.4696 | 18.1668 | 18.9567 | 18.1923 |
| 280090 | 14.7191 | 14.1362 | 15.1274 | 14.6962 |
| 280091 | 15.2184 | 15.8436 | 16.1866 | 15.7538 |
| 280092 | 14.1998 | 14.1945 | 14.7912 | 14.4303 |
| 280094 | 15.8843 | 17.6873 | 16.3474 | 16.6450 |
| 280097 | 14.2990 | 14.1734 | 13.8223 | 14.0824 |
| 280098 | 10.1686 | 13.0029 | 12.5875 | 12.0141 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 280101 | 17.4168 | 13.5261 | 16.9973 | 15.7528 |
| 280102 | 12.9367 | 14.0102 | * | 13.4735 |
| 280104 | 13.3842 | 13.2819 | 16.2167 | 14.1456 |
| 280105 | 18.7851 | 18.6575 | 21.0735 | 19.5325 |
| 280106 | 15.5396 | 16.1247 | 16.0679 | 15.9189 |
| 280107 | 13.4553 | 13.3311 | 14.4679 | 13.7065 |
| 280108 | 17.2185 | 17.5625 | 17.1961 | 17.3277 |
| 280109 | 11.0622 | 12.6803 | 12.4408 | 12.0678 |
| 280110 | 12.2950 | 12.7546 | 14.2136 | 13.0914 |
| 280111 | 23.0856 | 21.8773 | 19.6283 | 21.4131 |
| 280114 | 13.5580 | 15.7160 | 17.3076 | 15.4628 |
| 280115 | 16.4282 | 16.7041 | 18.1480 | 17.1049 |
| 280117 | 16.8216 | 17.7276 | 18.8279 | 17.8057 |
| 280118 | 16.9228 | 16.8687 | 18.6524 | 17.4822 |
| 280123 | 20.7732 | 14.0637 | 11.8582 | 15.0281 |
| 280125 | * | 16.1332 | 16.3944 | 16.2644 |
| 290001 | 22.4188 | 22.8226 | 22.7450 | 22.6608 |
| 290002 | 20.9442 | 17.2554 | 16.5419 | 18.3712 |
| 290003 | 25.0066 | 22.8840 | 24.2175 | 23.9864 |
| 290005 | 17.8609 | 19.4888 | 21.9814 | 19.6686 |
| 290006 | 19.8815 | 21.8070 | 22.4063 | 21.4371 |
| 290007 | 29.6864 | 29.7706 | 30.9075 | 30.1389 |
| 290008 | 20.2506 | 20.6190 | 24.1255 | 21.5150 |
| 290009 | 22.7399 | 23.3620 | 23.9373 | 23.3345 |
| 290010 | 14.4800 | 15.6423 | 16.4476 | 15.5219 |
| 290011 | 16.4419 | 20.1564 | 21.1234 | 19.0261 |
| 290012 | 21.5139 | 21.8275 | 25.0430 | 22.8581 |
| 290013 | 17.0883 | 18.2713 | 15.7932 | 17.0224 |
| 290014 | 18.3755 | 18.9743 | 18.7829 | 18.7144 |
| 290015 | 17.8303 | 22.3487 | 19.4504 | 19.7229 |
| 290016 | 12.7869 | 14.3542 | 23.8656 | 16.2244 |
| 290019 | 20.9336 | 21.2509 | 22.2045 | 21.4895 |
| 290020 | 26.1502 | 20.8733 | 21.2380 | 22.7207 |
| 290021 | 21.1250 | 21.5806 | 22.9488 | 21.8726 |
| 290022 | 24.0856 | 24.5468 | 25.5011 | 24.7398 |
| 290027 | 16.4289 | 16.7786 | 13.3769 | 15.4098 |
| 290032 | 22.7882 | 22.8447 | 23.9504 | 23.1730 |
| 290036 | 18.6112 | * | 12.9074 | 15.9259 |
| 290038 | 23.1402 | 20.6753 | 27.7030 | 22.6435 |
| 290039 | 25.8004 | 25.3864 | 25.5024 | 25.5429 |
| 290041 | * | * | 25.9905 | 25.9905 |
| 290042 | * | * | 18.7527 | 18.7527 |
| 290043 | * | * | 27.9053 | 27.9053 |
| 300001 | 21.4192 | 22.0909 | 23.8567 | 22.4761 |
| 300003 | 23.3777 | 22.9111 | 24.1297 | 23.4634 |
| 300005 | 19.9876 | 20.7545 | 22.2858 | 20.9804 |
| 300006 | 18.9331 | 23.7793 | 18.9745 | 20.5179 |
| 300007 | 19.3447 | 20.2372 | 20.6325 | 20.0620 |
| 300008 | 16.4649 | 20.7702 | 19.6149 | 18.9666 |
| 300009 | 20.0057 | 18.0602 | 20.0938 | 19.3221 |
| 300010 | 19.3833 | 19.3940 | 20.2130 | 19.6671 |
| 300011 | 21.2429 | 22.4325 | 23.0279 | 22.1850 |
| 300012 | 23.8859 | 24.5673 | 24.5619 | 24.3251 |
| 300013 | 18.9664 | 19.1247 | 20.1669 | 19.4250 |
| 300014 | 19.7969 | 20.3292 | 20.1774 | 20.0987 |
| 300015 | 19.9308 | 20.4916 | 19.6627 | 20.0406 |
| 300016 | 18.5037 | 21.8659 | 17.8148 | 19.4173 |
| 300017 | 22.3408 | 21.6563 | 22.7191 | 22.2414 |
| 300018 | 20.8947 | 21.2381 | 21.6385 | 21.2565 |
| 300019 | 20.6090 | 20.9753 | 19.6728 | 20.4155 |
| 300020 | 21.9725 | 21.9165 | 22.6627 | 22.2032 |
| 300021 | 17.3477 | 18.6211 | 19.3101 | 18.4253 |
| 300022 | 17.1864 | 18.3507 | 19.1875 | 18.2148 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 300023 | 20.3909 | 22.1210 | 22.7649 | 21.7833 |
| 300024 | 17.9460 | 19.9116 | 21.5842 | 19.6334 |
| 300028 | 18.0515 | 17.4075 | 20.0778 | 18.5816 |
| 300029 | 20.8961 | 22.5748 | 22.6013 | 22.0065 |
| 300033 | 19.8506 | 17.1869 | 17.1632 | 17.9333 |
| 300034 | 23.5215 | 25.5182 | 24.4975 | 24.5048 |
| 310001 | 27.5967 | 28.1329 | 27.4730 | 27.7287 |
| 310002 | 27.8735 | 28.3434 | 27.9728 | 28.0592 |
| 310003 | 27.4152 | 29.1096 | 27.5624 | 28.0099 |
| 310005 | 23.0493 | 22.1146 | 22.9712 | 22.6992 |
| 310006 | 21.5557 | 21.5957 | 22.0894 | 21.7417 |
| 310008 | 24.9483 | 23.5084 | 24.7618 | 24.4065 |
| 310009 | 23.1906 | 23.6371 | 21.7094 | 22.8601 |
| 310010 | 21.1064 | 22.5682 | 23.1060 | 22.2131 |
| 310011 | 23.4038 | 23.1977 | 24.2885 | 23.6223 |
| 310012 | 26.3249 | 26.5242 | 26.6772 | 26.5118 |
| 310013 | 22.1062 | 21.2251 | 22.5603 | 21.9726 |
| 310014 | 28.6964 | 27.4614 | 23.1956 | 26.3647 |
| 310015 | 26.7584 | 27.4331 | 27.9684 | 27.3934 |
| 310016 | 26.0518 | 24.3838 | 24.5206 | 24.9705 |
| 310017 | 26.0703 | 25.7902 | 24.5976 | 25.5018 |
| 310018 | 24.5312 | 22.8428 | 22.4779 | 23.3087 |
| 310019 | 23.0888 | 24.0542 | 24.9914 | 24.0619 |
| 310020 | 19.2663 | 24.1848 | 24.4152 | 22.3484 |
| 310021 | 22.6456 | 23.9369 | 25.4393 | 23.9309 |
| 310022 | 20.7276 | 21.2706 | 20.8258 | 20.9386 |
| 310024 | 22.7831 | 24.2353 | 24.9521 | 23.9428 |
| 310025 | 22.8129 | 24.3513 | 24.1812 | 23.7695 |
| 310026 | 23.8726 | 23.5491 | 22.1997 | 23.2228 |
| 310027 | 21.7666 | 21.8846 | 22.5696 | 22.0722 |
| 310028 | 23.5188 | 23.4577 | 23.9428 | 23.6444 |
| 310029 | 23.3801 | 22.6629 | 23.6610 | 23.2308 |
| 310031 | 25.1780 | 26.1567 | 26.6831 | 25.9979 |
| 310032 | 23.3017 | 24.3528 | 24.7404 | 24.1425 |
| 310034 | 21.6851 | 23.2729 | 24.1150 | 22.9962 |
| 310036 | 19.8178 | 20.1905 | 21.7187 | 20.5557 |
| 310037 | 27.4447 | 27.7823 | 28.1289 | 27.7758 |
| 310038 | 25.3832 | 26.7209 | 28.4893 | 26.9013 |
| 310039 | 22.0259 | 22.1754 | 22.7317 | 22.2988 |
| 310040 | 23.9864 | 26.1492 | 26.3573 | 25.4478 |
| 310041 | 23.7829 | 24.8960 | 23.5559 | 24.0709 |
| 310042 | 24.3292 | 23.2472 | 24.7678 | 24.1098 |
| 310043 | 22.0887 | 21.9022 | 21.6128 | 21.8925 |
| 310044 | 20.4309 | 21.6677 | 23.1549 | 21.6891 |
| 310045 | 28.1570 | 28.4854 | 28.9274 | 28.5212 |
| 310047 | 24.5225 | 25.1101 | 26.1921 | 25.2615 |
| 310048 | 23.3295 | 23.6118 | 25.2870 | 24.0821 |
| 310049 | 24.7617 | 24.8299 | 27.0842 | 25.4915 |
| 310050 | 22.5877 | 25.1752 | 24.7988 | 24.2032 |
| 310051 | 25.2762 | 27.1265 | 27.5378 | 26.5967 |
| 310052 | 22.5753 | 22.9326 | 23.3973 | 22.9809 |
| 310054 | 24.7413 | 26.1726 | 27.7376 | 26.1388 |
| 310057 | 20.4484 | 21.1686 | 22.2572 | 21.2802 |
| 310058 | 26.2243 | 26.5308 | 26.3765 | 26.3747 |
| 310060 | 19.1119 | 19.1992 | 20.0997 | 19.4729 |
| 310061 | 20.8023 | 23.2646 | 33.9582 | 25.0082 |
| 310062 | 19.2729 | 22.9073 | * | 21.3672 |
| 310063 | 21.8540 | 21.9045 | 22.1080 | 21.9521 |
| 310064 | 24.2115 | 24.8567 | 25.4822 | 24.8391 |
| 310067 | 22.2740 | 25.0888 | 23.9278 | 23.7333 |
| 310069 | 24.1662 | 23.7531 | 24.2329 | 24.0530 |
| 310070 | 25.0448 | 26.0903 | 28.2220 | 26.3630 |
| 310072 | 22.2231 | 21.7605 | 22.5611 | 22.1704 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 310073 | 25.6299 | 28.5149 | 26.2937 | 26.7849 |
| 310074 | 24.4638 | 23.8340 | 22.3588 | 23.6496 |
| 310075 | 26.4606 | 23.3266 | 24.4788 | 24.7522 |
| 310076 | 28.8981 | 30.0797 | 27.9918 | 29.0283 |
| 310077 | 25.0569 | 25.2500 | 26.1251 | 25.4460 |
| 310078 | 23.4788 | 23.8841 | 24.0587 | 23.7967 |
| 310081 | 23.8898 | 22.0762 | 22.4086 | 22.8084 |
| 310083 | 23.6761 | 23.8852 | 24.8204 | 24.1353 |
| 310084 | 24.0915 | 26.6753 | 24.6049 | 25.1157 |
| 310086 | 21.4350 | 22.1674 | 23.1719 | 22.2404 |
| 310087 | 20.8875 | 20.7243 | 21.1215 | 20.9125 |
| 310088 | 22.3419 | 22.3160 | 23.1722 | 22.6064 |
| 310090 | 24.2426 | 23.8284 | 24.8986 | 24.3109 |
| 310091 | 22.0103 | 22.7978 | 23.2969 | 22.6743 |
| 310092 | 22.3446 | 20.5165 | 21.6964 | 21.5200 |
| 310093 | 21.2302 | 22.4291 | 23.7251 | 22.4166 |
| 310096 | 26.3041 | 25.1572 | 24.5759 | 25.3591 |
| 310105 | 24.4851 | 25.5891 | 26.2537 | 25.4282 |
| 310108 | 22.8801 | 22.4756 | 23.8308 | 23.0488 |
| 310110 | 20.1400 | 21.8341 | 23.2146 | 21.7904 |
| 310111 | 21.7218 | 1.1066 | 22.1151 | 21.6430 |
| 310112 | 22.5213 | 23.6701 | 24.7914 | 23.6656 |
| 310113 | 22.9536 | 23.6841 | 23.1961 | 23.2803 |
| 310115 | 20.0667 | 21.7320 | 21.1645 | 20.9731 |
| 310116 | 25.2429 | 22.9812 | 23.6366 | 23.9253 |
| 310118 | 24.5443 | 26.4625 | 26.1315 | 25.6352 |
| 310119 | 29.4809 | 33.6686 | 32.7858 | 31.9394 |
| 310120 | 21.6852 | 23.9681 | 23.3200 | 22.9127 |
| 310121 | 18.7365 | * | * | 18.7365 |
| 320001 | 17.8522 | 19.1150 | 20.6225 | 19.1818 |
| 320002 | 22.4623 | 22.6175 | 23.0983 | 22.7062 |
| 320003 | 15.3484 | 15.9504 | 16.4642 | 15.9014 |
| 320004 | 17.2353 | 18.5824 | 19.6642 | 18.5890 |
| 320005 | 19.8698 | 21.6103 | 21.0411 | 20.8577 |
| 320006 | 18.6472 | 18.9019 | 20.3863 | 19.2674 |
| 320009 | 17.6400 | 18.2883 | 19.3500 | 18.4218 |
| 320011 | 16.5481 | 20.0601 | 18.5222 | 18.4330 |
| 320012 | 15.9972 | 16.4355 | 17.1764 | 16.5374 |
| 320013 | 23.8390 | 22.9573 | 24.5543 | 23.8179 |
| 320014 | 15.9666 | 16.3598 | 16.8412 | 16.4003 |
| 320016 | 18.9296 | 20.5398 | 18.8519 | 19.4293 |
| 320017 | 18.1545 | 18.6388 | 19.4498 | 18.7392 |
| 320018 | 18.1944 | 18.8479 | 19.2336 | 18.7690 |
| 320019 | 19.2600 | 24.4707 | 26.9637 | 23.5577 |
| 320021 | 17.1647 | 17.8705 | 19.0457 | 17.9920 |
| 320022 | 15.8391 | 16.1777 | 18.0606 | 16.7167 |
| 320023 | 16.4170 | 18.0548 | 17.8419 | 17.3761 |
| 320030 | 16.5266 | 16.5495 | 18.6859 | 17.1956 |
| 320031 | 13.9914 | 19.6768 | 25.1715 | 19.2605 |
| 320032 | 18.7536 | 18.8097 | 20.6871 | 19.3668 |
| 320033 | 20.3137 | 25.0777 | 21.0621 | 21.9427 |
| 320035 | 25.7392 | 21.5186 | 15.0612 | 19.2882 |
| 320037 | 17.0846 | 17.0305 | 17.8280 | 17.3203 |
| 320038 | 16.2896 | 16.8117 | 22.2664 | 18.6619 |
| 320046 | 19.0033 | 18.3190 | 18.9607 | 18.7526 |
| 320048 | 19.1705 | 19.9642 | 16.8769 | 18.5918 |
| 320063 | 19.8320 | 18.3237 | 17.9089 | 18.6049 |
| 320065 | 16.1046 | 16.7933 | 18.6525 | 17.1721 |
| 320067 | 57.4818 | 33.8654 | 15.3228 | 25.9798 |
| 320068 | 18.1809 | 17.4785 | 18.5103 | 18.1180 |
| 320069 | 11.3058 | 13.0094 | 14.4212 | 12.8497 |
| 320074 | 18.6545 | 19.3406 | 20.2290 | 19.3600 |
| 320079 | 17.0696 | 18.2828 | 19.8555 | 18.3645 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 330001 | 25.2067 | 26.5533 | 27.3996 | 26.4208 |
| 330002 | 26.3926 | 26.5370 | 26.9341 | 26.6121 |
| 330003 | 18.0549 | 19.4102 | 18.9211 | 18.7797 |
| 330004 | 19.9573 | 22.5298 | 20.9501 | 21.1368 |
| 330005 | 24.2795 | 24.8338 | 22.1957 | 23.2739 |
| 330006 | 25.9186 | 25.0576 | 25.8006 | 25.5856 |
| 330007 | 18.7956 | 18.9024 | * | 18.8475 |
| 330008 | 18.0684 | 19.0045 | 19.2341 | 18.7497 |
| 330009 | 30.4220 | 30.6918 | 31.3435 | 30.8056 |
| 330010 | 14.7382 | 17.4512 | 16.6508 | 16.1432 |
| 330011 | 18.0419 | 18.2986 | 18.6748 | 18.3483 |
| 330012 | 31.5135 | 32.7624 | * | 32.1317 |
| 330013 | 19.9929 | 19.0856 | 19.6269 | 19.5703 |
| 330014 | 27.5704 | 32.3370 | 36.8669 | 32.2778 |
| 330016 | 17.4069 | 16.9717 | 16.8016 | 17.0572 |
| 330019 | 32.4515 | 35.9822 | 33.5369 | 34.0043 |
| 330020 | 14.5488 | 15.5527 | 15.1142 | 15.0641 |
| 330023 | 24.2708 | 24.4006 | 25.6512 | 24.7835 |
| 330024 | 33.6175 | 34.1682 | 37.3316 | 34.9189 |
| 330025 | 16.0290 | 16.2033 | 16.8687 | 16.3599 |
| 330027 | 32.4959 | 33.4738 | 35.5255 | 33.7629 |
| 330028 | 27.0752 | 28.2089 | 29.5294 | 28.2349 |
| 330029 | 16.5552 | 18.1567 | 17.0016 | 17.2536 |
| 330030 | 15.0551 | 17.4977 | 19.1085 | 16.8779 |
| 330033 | 16.7497 | 18.5353 | 17.4444 | 17.6068 |
| 330034 | 30.7840 | 31.3997 | 27.7738 | 30.5701 |
| 330036 | 24.3239 | 23.9874 | 25.2820 | 24.5370 |
| 330037 | 16.0026 | 16.1140 | 16.4866 | 16.2081 |
| 330038 | 16.0153 | 16.2549 | 17.3429 | 16.5336 |
| 330039 | 12.4666 | * | * | 12.4666 |
| 330041 | 30.4192 | 24.5215 | 31.4871 | 28.4761 |
| 330043 | 27.6286 | 28.7467 | 27.4661 | 27.9537 |
| 330044 | 18.6969 | 20.0238 | 19.5219 | 19.4106 |
| 330045 | 27.1759 | 28.0758 | 27.9919 | 27.7401 |
| 330046 | 31.9802 | 32.4189 | 35.2703 | 33.1562 |
| 330047 | 17.6895 | 18.1815 | 18.5536 | 18.1416 |
| 330048 | 17.6239 | 17.8787 | 19.1093 | 18.1878 |
| 330049 | 19.3136 | 19.4993 | 20.5731 | 19.7930 |
| 330053 | 15.6659 | 17.4430 | 17.8082 | 16.9823 |
| 330055 | 30.7330 | 36.1109 | 32.8910 | 33.1680 |
| 330056 | 30.2206 | 30.4525 | 30.0945 | 30.2540 |
| 330057 | 18.6891 | 18.7478 | 19.3643 | 18.9410 |
| 330058 | 16.9805 | 17.0014 | 17.7672 | 17.2379 |
| 330059 | 32.2285 | 34.1705 | 34.2426 | 33.4744 |
| 330061 | 25.0674 | 25.7331 | 25.4082 | 25.4024 |
| 330062 | 15.2819 | 17.6067 | 18.1318 | 16.9856 |
| 330064 | 32.8724 | 33.1269 | 33.6447 | 33.2084 |
| 330065 | 18.3686 | 19.8940 | 19.9305 | 19.3468 |
| 330066 | 19.9455 | 19.5611 | 18.8707 | 19.4674 |
| 330067 | 21.2872 | 20.9443 | 22.1065 | 21.4528 |
| 330072 | 29.3096 | 30.8019 | 30.4171 | 30.1659 |
| 330073 | 15.8849 | 16.2898 | 16.4518 | 16.2013 |
| 330074 | 18.1636 | 18.0005 | 17.7308 | 17.9678 |
| 330075 | 17.4266 | 17.2298 | 17.6385 | 17.4324 |
| 330078 | 17.4863 | 16.7949 | 18.7884 | 17.6577 |
| 330079 | 16.7608 | 17.4555 | 18.7622 | 17.6535 |
| 330080 | 26.8766 | 29.2686 | 31.4424 | 29.0970 |
| 330084 | 23.0327 | 18.0435 | 19.3216 | 19.8703 |
| 330085 | 18.7835 | 20.2926 | 20.6203 | 19.8951 |
| 330086 | 30.6954 | 31.2980 | 23.6496 | 28.6407 |
| 330088 | 25.6160 | 25.6626 | 25.7940 | 25.6905 |
| 330090 | 18.6833 | 19.3954 | 19.2112 | 19.0937 |
| 330091 | 18.5334 | 19.0953 | 19.7776 | 19.1249 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 330092 | 12.6540 | 14.0671 | 13.3723 | 13.3059 |
| 330094 | 17.7196 | 17.5585 | 18.1582 | 17.8207 |
| 330095 | 18.5502 | 20.1073 | 21.1096 | 19.8197 |
| 330096 | 16.5963 | 17.9641 | 18.5149 | 17.6975 |
| 330097 | 16.9626 | 16.2169 | 16.4433 | 16.5145 |
| 330100 | 28.1060 | 27.0661 | 29.0916 | 28.0415 |
| 330101 | 31.3075 | 32.4105 | 31.5914 | 31.7153 |
| 330102 | 17.5230 | 17.5755 | 19.0058 | 18.0012 |
| 330103 | 16.5212 | 15.7197 | 16.8110 | 16.3435 |
| 330104 | 28.7669 | 31.6471 | 31.2074 | 30.5068 |
| 330106 | 35.8740 | 40.2686 | 35.3775 | 37.0516 |
| 330107 | 28.0780 | 28.5580 | 27.7797 | 28.1411 |
| 330108 | 17.0846 | 17.3605 | 18.0786 | 17.5050 |
| 330111 | 15.2047 | 19.5314 | 15.9321 | 16.7001 |
| 330114 | 18.2390 | 17.3522 | 17.0581 | 17.5626 |
| 330115 | 16.5581 | 17.4430 | 17.4684 | 17.1455 |
| 330116 | 24.2266 | 24.4622 | 14.9610 | 20.6732 |
| 330118 | 20.7550 | 20.6936 | * | 20.7240 |
| 330119 | 34.7478 | 34.8385 | 33.1179 | 34.2290 |
| 330121 | 15.8468 | 16.1052 | 16.3385 | 16.0964 |
| 330122 | 21.2021 | 20.8204 | 20.2417 | 20.7389 |
| 330125 | 19.7456 | 19.8494 | 19.7638 | 19.7865 |
| 330126 | 22.6990 | 23.7938 | 23.8957 | 23.4789 |
| 330127 | 29.3317 | 31.9046 | 30.7356 | 30.6271 |
| 330128 | 27.8693 | 29.0222 | 30.8242 | 29.1534 |
| 330132 | 14.7006 | 15.7633 | 14.3673 | 14.9673 |
| 330133 | 32.3812 | 37.2494 | 35.3576 | 34.8196 |
| 330135 | 18.3346 | 18.7120 | 22.2670 | 19.6717 |
| 330136 | 17.6041 | 18.2422 | 20.1043 | 18.6252 |
| 330140 | 19.5016 | 19.1438 | 19.3615 | 19.3334 |
| 330141 | 25.1371 | 26.4956 | 26.7096 | 26.0966 |
| 330144 | 15.5068 | 14.0566 | 16.2517 | 15.2343 |
| 330148 | 15.0400 | 16.8151 | 16.2782 | 16.0197 |
| 330151 | 13.9700 | 16.0714 | 15.7594 | 15.2313 |
| 330152 | 29.4818 | 30.5409 | 30.8314 | 30.2117 |
| 330153 | 17.4996 | 18.9689 | 18.1776 | 18.1944 |
| 330157 | 20.8239 | 22.0792 | 22.3804 | 21.7687 |
| 330158 | 26.0476 | 25.7569 | 27.1228 | 26.3184 |
| 330159 | 18.0211 | 19.1536 | 19.4998 | 18.8640 |
| 330160 | 30.5678 | 32.7840 | 29.5885 | 30.9340 |
| 330162 | 27.7162 | 27.1166 | 27.6010 | 27.4784 |
| 330163 | 20.4555 | 18.7816 | 20.7456 | 19.9795 |
| 330164 | 19.4831 | 19.8647 | 20.9003 | 20.0827 |
| 330166 | 14.1815 | 15.0954 | 15.4420 | 14.8722 |
| 330167 | 31.1834 | 29.3634 | 30.2346 | 30.2561 |
| 330169 | 33.4462 | 37.2655 | 35.4794 | 35.3665 |
| 330171 | 25.4314 | 25.5307 | 24.8035 | 25.2597 |
| 330175 | 16.6851 | 17.3290 | 18.3116 | 17.4443 |
| 330177 | 14.5378 | 17.2907 | 16.3704 | 16.0830 |
| 330179 | 12.6857 | 13.4999 | 13.8953 | 13.3684 |
| 330180 | 15.5304 | 16.8787 | 17.9877 | 16.7426 |
| 330181 | 32.4718 | 32.5192 | 33.0908 | 32.6900 |
| 330182 | 30.9260 | 32.9371 | 33.6531 | 32.5479 |
| 330183 | 19.9964 | 19.9207 | 20.6164 | 20.1809 |
| 330184 | 27.4859 | 30.0400 | 31.3706 | 29.6316 |
| 330185 | 26.9496 | 25.6112 | 26.8612 | 26.4537 |
| 330188 | 18.7208 | 20.9587 | 18.8000 | 19.4696 |
| 330189 | 17.6585 | 15.1253 | 18.4498 | 16.9610 |
| 330191 | 18.8586 | 18.6206 | 19.0348 | 18.8384 |
| 330193 | 29.8042 | 36.5481 | 30.2260 | 31.8162 |
| 330194 | 35.5748 | 34.6785 | 35.2036 | 35.1664 |
| 330195 | 31.3915 | 33.3254 | 34.8966 | 33.0747 |
| 330196 | 28.4465 | 30.8165 | 30.5799 | 29.9142 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 330197 | 16.9990 | 17.6646 | 18.3527 | 17.6922 |
| 330198 | 23.8113 | 24.6038 | 24.8590 | 24.4203 |
| 330199 | 27.6605 | 28.7609 | 30.5409 | 28.9499 |
| 330201 | 30.3293 | 32.1149 | 28.7861 | 30.4144 |
| 330202 | 30.7869 | 31.4435 | 31.2575 | 31.1487 |
| 330203 | 19.2353 | 20.7575 | 25.0345 | 21.5038 |
| 330204 | 29.3662 | 29.4418 | 32.2005 | 30.2707 |
| 330205 | 19.4642 | 20.5793 | 22.3490 | 20.7832 |
| 330208 | 25.8201 | 26.1822 | 26.6682 | 26.2220 |
| 330209 | 24.8834 | 23.9924 | 25.1281 | 24.6749 |
| 330211 | 19.0968 | 19.5064 | 19.5405 | 19.3836 |
| 330212 | 21.1777 | 21.7705 | 24.7681 | 22.5597 |
| 330213 | 18.5066 | 18.7722 | 19.6796 | 18.9552 |
| 330214 | 32.1966 | 36.4447 | 32.4292 | 33.4440 |
| 330215 | 17.5818 | 19.6926 | 17.9863 | 18.3902 |
| 330218 | 21.7072 | 21.4796 | 21.1890 | 21.4557 |
| 330219 | 22.1476 | 23.9908 | 23.4310 | 23.1411 |
| 330221 | 32.2081 | 27.8485 | 33.3796 | 31.2840 |
| 330222 | 17.8140 | 18.3666 | 18.5571 | 18.2482 |
| 330223 | 17.2754 | 17.6199 | 17.8306 | 17.5845 |
| 330224 | 21.9728 | 19.6410 | 20.4309 | 20.7047 |
| 330225 | 25.8043 | 25.5823 | 27.0379 | 26.0910 |
| 330226 | 17.6708 | 16.6711 | 23.1859 | 18.8241 |
| 330229 | 16.2509 | 16.8026 | 17.5326 | 16.8453 |
| 330230 | 28.8625 | 29.7626 | 29.6283 | 29.3810 |
| 330231 | 29.0917 | 30.0923 | 32.7200 | 30.4677 |
| 330232 | 19.5042 | 17.9083 | 19.1787 | 18.8569 |
| 330233 | 33.3008 | 30.9241 | 44.1265 | 35.0751 |
| 330234 | 33.3286 | 35.1777 | 35.0720 | 34.4830 |
| 330235 | 19.4532 | 21.0842 | 19.5880 | 20.0417 |
| 330236 | 30.7017 | 29.5913 | 31.3463 | 30.5397 |
| 330238 | 14.7951 | 15.6245 | 17.3976 | 15.9047 |
| 330239 | 17.2808 | 17.4462 | 18.5079 | 17.7328 |
| 330240 | 30.4765 | 29.7082 | 30.7321 | 30.2841 |
| 330241 | 22.6046 | 24.6076 | 23.8638 | 23.6409 |
| 330242 | 24.7401 | 28.2612 | 27.6384 | 26.8305 |
| 330245 | 17.2803 | 17.6767 | 18.5161 | 17.8488 |
| 330246 | 26.6587 | 28.1090 | 28.1205 | 27.6612 |
| 330247 | 27.6203 | 28.5310 | 27.3937 | 27.8277 |
| 330249 | 16.4818 | 16.2687 | 17.1320 | 16.6304 |
| 330250 | 19.5553 | 19.5823 | 19.9619 | 19.7058 |
| 330252 | 17.0379 | * | * | 17.0379 |
| 330254 | 16.7252 | 18.4057 | 15.9123 | 17.0146 |
| 330258 | 30.4656 | 29.7426 | 31.8910 | 30.6921 |
| 330259 | 25.2526 | 26.2661 | 25.9994 | 25.8364 |
| 330261 | 26.1654 | 25.7244 | 27.9766 | 26.6137 |
| 330263 | 19.6388 | 20.4149 | 18.7378 | 19.6517 |
| 330264 | 23.1359 | 22.8672 | 22.8099 | 22.9301 |
| 330265 | 15.6249 | 18.0193 | 17.6301 | 17.0414 |
| 330267 | 23.5561 | 24.5183 | 24.5939 | 24.2287 |
| 330268 | 14.6249 | 13.0595 | 15.9060 | 14.5364 |
| 330270 | 28.2392 | 34.4254 | 36.0824 | 32.6382 |
| 330273 | 25.8910 | 23.1511 | 26.0565 | 24.9430 |
| 330275 | 17.4223 | 19.0548 | 18.7268 | 18.3387 |
| 330276 | 17.7452 | 18.2870 | 19.0228 | 18.3342 |
| 330277 | 17.1570 | 18.3169 | 19.1761 | 18.2131 |
| 330279 | 19.9079 | 19.5983 | 20.7107 | 20.0436 |
| 330285 | 22.4717 | 23.5264 | 24.0491 | 23.3509 |
| 330286 | 25.0948 | 26.7633 | 27.7762 | 26.5916 |
| 330290 | 32.5792 | 33.5056 | 30.4706 | 32.2470 |
| 330293 | 15.3782 | 16.2158 | 16.9238 | 16.1248 |
| 330304 | 29.3687 | 26.7683 | 27.3562 | 27.8227 |
| 330306 | 27.6214 | 27.3798 | 29.5937 | 28.1525 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 330307 | 20.7362 | 21.0673 | 21.7257 | 21.1725 |
| 330308 | 36.8361 | * | * | 36.8361 |
| 330314 | 24.7399 | 24.5444 | 25.9937 | 25.0514 |
| 330316 | 28.7872 | 27.6102 | 27.9543 | 28.1177 |
| 330327 | 16.9724 | 16.4611 | 20.3874 | 17.9258 |
| 330331 | 31.0405 | 31.6216 | 33.1276 | 32.0298 |
| 330332 | 27.1554 | 27.6914 | 25.3689 | 26.7855 |
| 330333 | * | 29.1931 | * | 29.1931 |
| 330336 | 30.1708 | 29.7689 | 29.8294 | 29.9290 |
| 330338 | 23.0077 | 22.4581 | 21.2670 | 22.2755 |
| 330339 | 19.6730 | 20.0111 | 20.1028 | 19.9220 |
| 330340 | 26.9201 | 28.8419 | 28.4129 | 28.0687 |
| 330350 | 30.3754 | 30.8889 | 30.9763 | 30.7427 |
| 330353 | 33.5519 | 32.1984 | 34.2431 | 33.3163 |
| 330357 | 34.7492 | 36.5928 | 34.1846 | 35.2059 |
| 330359 | 29.2920 | * | * | 29.2920 |
| 330372 | 22.5027 | 28.8482 | 33.3771 | 27.5982 |
| 330381 | 29.2438 | 31.0091 | 31.8602 | 30.6612 |
| 330385 | 28.8373 | 35.6722 | 33.2246 | 32.4207 |
| 330386 | 24.6713 | 17.6383 | 20.4231 | 20.5236 |
| 330389 | 32.4234 | 30.2505 | 37.3749 | 32.9392 |
| 330390 | 29.7936 | 31.1577 | 30.8744 | 30.5843 |
| 330393 | 27.9901 | 26.4958 | 27.8352 | 27.4232 |
| 330394 | 18.7724 | 19.2392 | 18.9343 | 18.9816 |
| 330395 | 37.6805 | 32.8749 | 32.7494 | 34.3792 |
| 330396 | 30.7228 | 34.8648 | 30.7961 | 32.1685 |
| 330397 | 31.0043 | 33.9061 | 32.6068 | 32.3768 |
| 330398 | 30.3217 | 28.7707 | 29.2872 | 29.6846 |
| 330399 | 35.5212 | 32.9100 | 33.3012 | 33.9214 |
| 330400 | * | * | 16.2707 | 16.2707 |
| 340001 | 19.0159 | 18.1814 | 19.7093 | 18.9605 |
| 340002 | 18.7790 | 20.8858 | 20.5253 | 20.0921 |
| 340003 | 21.9674 | 20.2540 | 19.5145 | 20.4958 |
| 340004 | 17.8923 | 19.0695 | 20.9863 | 19.3245 |
| 340005 | 14.0941 | 15.8205 | 16.7176 | 15.5039 |
| 340006 | 17.8145 | 16.9818 | 16.5709 | 17.0955 |
| 340007 | 17.1708 | 17.2356 | 18.3399 | 17.5929 |
| 340008 | 18.3769 | 21.2889 | 20.4157 | 20.0279 |
| 340009 | 20.5011 | 20.5023 | 20.9178 | 20.6132 |
| 340010 | 17.6500 | 18.3380 | 19.4302 | 18.4900 |
| 340011 | 14.9215 | 13.6554 | 14.4798 | 14.3110 |
| 340012 | 16.6574 | 18.8701 | 17.5112 | 17.6905 |
| 340013 | 17.4302 | 20.1747 | 19.4613 | 19.0754 |
| 340014 | 19.9203 | 20.5748 | 27.7888 | 22.1408 |
| 340015 | 19.0056 | 20.1562 | 19.4676 | 19.5517 |
| 340016 | 16.3977 | 17.5404 | 18.8958 | 17.5664 |
| 340017 | 19.2203 | 19.4192 | 20.2775 | 19.6581 |
| 340018 | 15.1579 | 14.0930 | 18.1751 | 15.6569 |
| 340019 | 13.5919 | 14.8980 | 15.2887 | 14.5682 |
| 340020 | 16.7515 | 18.6334 | 18.0897 | 17.8512 |
| 340021 | 19.6658 | 19.8020 | 20.5813 | 20.0277 |
| 340022 | 16.7211 | 17.8178 | 18.7714 | 17.7886 |
| 340023 | 17.2054 | 18.5414 | 19.3146 | 18.3540 |
| 340024 | 16.6389 | 17.3824 | 17.9130 | 17.3104 |
| 340025 | 16.8198 | 17.2648 | 18.4628 | 17.5179 |
| 340027 | 17.2971 | 18.0816 | 19.4548 | 18.2602 |
| 340028 | 17.7196 | 18.4787 | 19.9403 | 18.7490 |
| 340030 | 20.0530 | 21.1420 | 22.4709 | 21.2046 |
| 340031 | 12.3895 | 14.6951 | 14.6370 | 13.8761 |
| 340032 | 20.4735 | 20.0049 | 20.7444 | 20.4083 |
| 340035 | 18.0988 | 20.2312 | 18.9930 | 19.1067 |
| 340036 | 16.9674 | 18.2190 | 17.7619 | 17.6323 |
| 340037 | 15.5347 | 16.6576 | 17.5829 | 16.5842 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 340038 | 17.0154 | 17.3762 | 18.1493 | 17.5050 |
| 340039 | 20.1470 | 20.5876 | 21.3711 | 20.7125 |
| 340040 | 20.1214 | 20.4282 | 20.7237 | 20.4264 |
| 340041 | 17.7626 | 15.1419 | 15.5873 | 16.0395 |
| 340042 | 16.6300 | 16.9298 | 17.0034 | 16.8680 |
| 340044 | 16.3657 | 18.8687 | 18.0863 | 17.7757 |
| 340045 | 12.4152 | 13.0538 | 13.6182 | 12.9769 |
| 340047 | 19.6050 | 20.0602 | 20.0744 | 19.9132 |
| 340049 | 16.4988 | 19.2050 | 19.5127 | 18.2917 |
| 340050 | 18.5570 | 20.0090 | 19.6726 | 19.4142 |
| 340051 | 18.5953 | 16.5617 | 19.3627 | 18.0980 |
| 340052 | 21.3746 | 22.8173 | 23.2134 | 22.4161 |
| 340053 | 19.4881 | 20.9495 | 19.9915 | 20.1403 |
| 340054 | 14.4722 | 15.5993 | 15.5090 | 15.2167 |
| 340055 | 18.1786 | 19.6056 | 19.4035 | 19.0752 |
| 340060 | 17.9167 | 18.7137 | 19.3410 | 18.6670 |
| 340061 | 20.8474 | 21.5385 | 22.1175 | 21.4855 |
| 340063 | 16.9232 | 17.0249 | 16.7377 | 16.9005 |
| 340064 | 17.2584 | 20.7125 | 18.5069 | 18.8299 |
| 340065 | 18.3212 | 17.5414 | 17.3530 | 17.7394 |
| 340067 | 18.6132 | 19.3785 | 19.7187 | 19.2365 |
| 340068 | 16.7015 | 16.6305 | 17.8065 | 17.0483 |
| 340069 | 19.9948 | 21.0840 | 21.6728 | 20.9166 |
| 340070 | 18.6270 | 19.7796 | 20.6829 | 19.7122 |
| 340071 | 16.3701 | 17.1424 | 18.0767 | 17.2043 |
| 340072 | 15.6014 | 16.7400 | 17.7129 | 16.7307 |
| 340073 | 20.6905 | 21.9761 | 23.5832 | 22.0016 |
| 340075 | 18.2060 | 18.7090 | 20.0081 | 18.9541 |
| 340080 | 16.8453 | 22.2533 | 18.2061 | 19.0642 |
| 340084 | 21.7813 | 17.1532 | 19.0103 | 19.0182 |
| 340085 | 16.2355 | 17.3462 | 18.3179 | 17.3020 |
| 340087 | 16.6987 | 17.3884 | 18.2255 | 17.4652 |
| 340088 | 19.8314 | 21.0226 | 22.2322 | 21.0156 |
| 340089 | 13.8633 | 13.8535 | 15.4760 | 14.4308 |
| 340090 | 17.8457 | 17.0584 | 18.5287 | 17.8139 |
| 340091 | 19.3955 | 20.5923 | 20.3861 | 20.1343 |
| 340093 | 15.1615 | 16.3276 | 16.8903 | 16.0870 |
| 340094 | 15.9568 | 19.0406 | * | 17.4328 |
| 340096 | 17.9764 | 17.8189 | 19.4696 | 18.4348 |
| 340097 | 21.3700 | 18.8412 | 18.2399 | 19.4192 |
| 340098 | 20.1671 | 21.4135 | 21.9578 | 21.2065 |
| 340099 | 15.0888 | 16.8305 | 15.3752 | 15.7269 |
| 340101 | 15.3610 | 13.9994 | 15.6509 | 14.9555 |
| 340104 | 15.8729 | 13.0462 | 11.5169 | 13.4465 |
| 340105 | 18.9007 | 20.2954 | * | 19.5963 |
| 340106 | 18.0769 | 17.7220 | 18.1211 | 17.9704 |
| 340107 | 16.9503 | 18.0205 | 19.3197 | 18.0904 |
| 340109 | 17.9576 | 18.7746 | 19.0532 | 18.6067 |
| 340111 | 14.9247 | 16.3344 | 16.5976 | 15.9665 |
| 340112 | 14.5966 | 14.7562 | 15.5142 | 14.9625 |
| 340113 | 20.8821 | 21.2906 | 21.9883 | 21.3854 |
| 340114 | 20.8195 | 21.2166 | 20.7261 | 20.9197 |
| 340115 | 18.6700 | 19.7578 | 21.7586 | 20.0594 |
| 340116 | 19.4786 | 20.4255 | 20.6800 | 20.2116 |
| 340119 | 16.8537 | 18.8507 | 19.5827 | 18.4595 |
| 340120 | 14.3822 | 15.0410 | 15.8240 | 15.1047 |
| 340121 | 15.9686 | 16.3295 | 17.8771 | 16.7251 |
| 340123 | 16.2227 | 16.9114 | 18.9078 | 17.3848 |
| 340124 | 14.0462 | 15.5779 | 17.4185 | 15.7171 |
| 340125 | 19.6252 | 19.7164 | 20.2748 | 19.8633 |
| 340126 | 17.7214 | 18.8100 | 19.3734 | 18.6747 |
| 340127 | 17.3849 | 19.3925 | 19.3842 | 18.7105 |
| 340129 | 19.7332 | 20.4605 | 20.6521 | 20.2893 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 340130 | 19.4430 | 19.7422 | 19.8707 | 19.6940 |
| 340131 | 18.9361 | 19.7908 | 21.3849 | 20.0481 |
| 340132 | 16.9369 | 17.3448 | 17.5711 | 17.3015 |
| 340133 | 14.3501 | 16.4766 | 17.2138 | 16.0568 |
| 340137 | * | 21.0249 | 31.7702 | 23.8273 |
| 340138 | 19.2807 | 20.7618 | * | 20.0092 |
| 340141 | 22.2234 | 21.3754 | 21.4986 | 21.6898 |
| 340142 | 16.0912 | 17.1525 | 18.0766 | 17.1107 |
| 340143 | 20.9509 | 21.3604 | 24.4098 | 22.2423 |
| 340144 | 19.1919 | 20.9113 | 22.9183 | 20.9333 |
| 340145 | 19.1964 | 20.1081 | 19.9233 | 19.7573 |
| 340146 | 13.0119 | 15.9203 | 17.3051 | 15.3284 |
| 340147 | 19.1087 | 19.6827 | 20.5520 | 19.8121 |
| 340148 | 18.4227 | 18.5875 | 18.9912 | 18.6555 |
| 340151 | 16.5671 | 16.7275 | 18.4733 | 17.2579 |
| 340153 | 20.6588 | 20.6420 | 20.7533 | 20.6847 |
| 340155 | 20.4236 | 20.5792 | 23.1021 | 21.3418 |
| 340158 | 17.2565 | 18.1439 | 19.0843 | 18.2232 |
| 340159 | 16.8048 | 17.3893 | 19.0338 | 17.7595 |
| 340160 | 15.5298 | 16.1778 | 16.7170 | 16.1477 |
| 340162 | 16.6362 | 14.3472 | * | 16.3541 |
| 340164 | 19.6820 | 21.2523 | 21.5769 | 20.8240 |
| 340166 | 19.1743 | 20.0434 | 20.8270 | 20.0663 |
| 340168 | 14.7508 | 15.2919 | 15.6071 | 15.2494 |
| 340171 | 20.0495 | 21.5973 | 22.4779 | 21.4041 |
| 340173 | 20.2132 | 19.3353 | 21.0898 | 20.2512 |
| 350001 | 11.7345 | 14.9080 | 16.6551 | 14.4005 |
| 350002 | 17.2834 | 17.5259 | 18.3459 | 17.7122 |
| 350003 | 17.4276 | 18.2470 | 19.2840 | 18.3041 |
| 350004 | 17.9049 | 20.6518 | 23.7016 | 20.6528 |
| 350005 | 16.0259 | 18.3792 | 19.9156 | 18.1833 |
| 350006 | 16.6241 | 18.4107 | 19.0343 | 17.9691 |
| 350007 | 13.2771 | 13.3292 | 13.8824 | 13.4842 |
| 350008 | 21.6983 | 20.4777 | 22.3783 | 21.4889 |
| 350009 | 18.2818 | 19.1611 | 18.3688 | 18.6099 |
| 350010 | 15.2762 | 16.2808 | 16.6272 | 16.0505 |
| 350011 | 18.4931 | 18.2008 | 19.1944 | 18.6474 |
| 350012 | 12.7287 | 15.7033 | 18.2524 | 15.6975 |
| 350013 | 16.6784 | 16.4579 | 17.2596 | 16.7923 |
| 350014 | 15.7906 | 16.8403 | 18.0999 | 16.8354 |
| 350015 | 15.8651 | 16.3397 | 17.1071 | 16.3998 |
| 350016 | 11.6255 | 11.6524 | * | 11.6395 |
| 350017 | 17.7835 | 17.6278 | 17.5124 | 17.6446 |
| 350018 | 13.6366 | 14.4928 | 16.4939 | 14.8276 |
| 350019 | 19.4037 | 19.3063 | 20.1608 | 19.6008 |
| 350021 | 12.6885 | 16.2898 | 17.7123 | 15.5294 |
| 350023 | 12.7952 | 17.9048 | 17.4983 | 16.4355 |
| 350024 | 14.3740 | 14.7529 | 15.4788 | 14.8361 |
| 350025 | 16.2400 | 17.1199 | 15.0469 | 16.0889 |
| 350027 | 17.1177 | 15.0835 | 15.5178 | 15.9200 |
| 350029 | 12.7950 | 13.5219 | 14.6173 | 13.6002 |
| 350030 | 17.3497 | 17.7209 | 18.1131 | 17.7195 |
| 350033 | 14.8953 | 14.9012 | 16.0870 | 15.2715 |
| 350034 | 18.3180 | 18.7245 | 19.6445 | 18.8742 |
| 350035 | 10.1561 | 10.4570 | 11.7675 | 10.7676 |
| 350038 | 18.7357 | 17.6666 | 19.6854 | 18.6648 |
| 350039 | 17.3128 | 17.0361 | 16.6278 | 17.0024 |
| 350041 | 14.6772 | 14.6680 | 19.1341 | 15.9095 |
| 350042 | 16.7544 | 16.7402 | 19.3309 | 17.4345 |
| 350043 | 17.1573 | 16.8876 | 16.7433 | 16.9224 |
| 350044 | 10.5296 | 10.2154 | 11.0601 | 10.5801 |
| 350047 | 17.9270 | 14.4628 | 18.0094 | 16.8202 |
| 350049 | 14.5330 | 14.8019 | 18.1993 | 15.6280 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 350050 | 10.5733 | 11.4921 | 12.2183 | 11.3924 |
| 350051 | 17.5323 | 17.7279 | 17.0653 | 17.4458 |
| 350053 | 13.9379 | 14.6398 | 15.9160 | 14.8075 |
| 350055 | 12.3722 | 14.5691 | 15.7916 | 14.3152 |
| 350056 | 14.7382 | 14.8293 | 15.0995 | 14.8885 |
| 350058 | 14.3484 | 15.9378 | 16.7034 | 15.7009 |
| 350060 | 9.5962 | 10.3666 | 10.3076 | 10.0926 |
| 350061 | 14.5894 | 15.7269 | 18.8790 | 16.4237 |
| 360001 | 17.3933 | 17.0791 | 19.6655 | 18.0423 |
| 360002 | 17.3955 | 18.0139 | 18.2613 | 17.9462 |
| 360003 | 22.0351 | 22.7471 | 22.7521 | 22.5117 |
| 360006 | 22.0906 | 21.8048 | 22.4436 | 22.1137 |
| 360007 | 17.0955 | 18.0941 | 14.8213 | 16.6387 |
| 360008 | 17.8185 | 18.5439 | 18.7961 | 18.3915 |
| 360009 | 17.5328 | 18.9322 | 18.9935 | 18.4667 |
| 360010 | 18.0886 | 19.2288 | 19.1852 | 18.8325 |
| 360011 | 18.9491 | 19.3835 | 21.3659 | 19.9105 |
| 360012 | 19.2221 | 19.9881 | 20.0525 | 19.7649 |
| 360013 | 20.8112 | 20.6021 | 21.3690 | 20.9190 |
| 360014 | 19.8844 | 20.2390 | 20.7419 | 20.2907 |
| 360016 | 18.7709 | 17.8065 | 21.2505 | 19.1632 |
| 360017 | 22.4972 | 21.7543 | 22.2740 | 22.1696 |
| 360018 | 21.3436 | 23.5219 | 24.6686 | 23.0168 |
| 360019 | 20.1726 | 18.7147 | 20.6480 | 19.8139 |
| 360020 | 22.9512 | 21.7806 | 22.1751 | 22.3268 |
| 360024 | 18.5412 | 19.8508 | 20.1352 | 19.5008 |
| 360025 | 19.2918 | 20.3638 | 20.2531 | 19.9763 |
| 360026 | 17.0378 | 18.2222 | 17.9523 | 17.7450 |
| 360027 | 20.3568 | 21.0406 | 21.7650 | 21.0544 |
| 360028 | 17.2681 | 17.0177 | 18.7174 | 17.5937 |
| 360029 | 18.2193 | 18.7622 | 19.2928 | 18.7626 |
| 360030 | 15.3535 | 17.5748 | 17.6058 | 16.8173 |
| 360031 | 19.8987 | 19.3858 | 21.0687 | 20.1028 |
| 360032 | 17.9274 | 18.6559 | 19.8020 | 18.7667 |
| 360034 | 15.5649 | 14.9534 | 17.9594 | 16.1258 |
| 360035 | 20.3358 | 20.5557 | 21.0674 | 20.6574 |
| 360036 | 19.1835 | 20.2107 | 20.9916 | 20.1250 |
| 360037 | 22.5240 | 23.5094 | 23.1674 | 23.0445 |
| 360038 | 19.8921 | 21.2467 | 19.9415 | 20.3576 |
| 360039 | 17.4033 | 18.7791 | 19.0013 | 18.5872 |
| 360040 | 18.1238 | 18.1618 | 18.7425 | 18.3503 |
| 360041 | 18.4244 | 19.5744 | 19.7968 | 19.2697 |
| 360042 | 16.1187 | 17.4306 | 17.1952 | 16.9328 |
| 360044 | 16.7925 | 17.0612 | 17.6882 | 17.1993 |
| 360045 | 21.1814 | 22.1471 | 22.4018 | 21.8209 |
| 360046 | 19.3198 | 20.4755 | 20.4607 | 20.0909 |
| 360047 | 15.3399 | 17.1871 | 15.2922 | 15.8884 |
| 360048 | 21.1719 | 22.5857 | 22.4890 | 22.0646 |
| 360049 | 18.8084 | 20.4564 | 20.8393 | 20.0008 |
| 360050 | 12.8888 | 12.9873 | 15.0568 | 13.6080 |
| 360051 | 20.9461 | 20.8338 | 20.8757 | 20.8844 |
| 360052 | 20.0182 | 19.6233 | 18.7931 | 19.5088 |
| 360054 | 16.1875 | 17.2574 | 17.4911 | 16.9860 |
| 360055 | 23.2671 | 21.5585 | 21.4112 | 22.0925 |
| 360056 | 18.7606 | 19.0474 | 20.6968 | 19.5385 |
| 360057 | 13.8094 | 15.0146 | 15.8569 | 14.8518 |
| 360058 | 17.9178 | 18.6992 | 19.3306 | 18.6392 |
| 360059 | 21.9689 | 20.5618 | 19.9304 | 20.8679 |
| 360062 | 20.3111 | 20.7588 | 21.9195 | 20.9548 |
| 360063 | 22.7866 | 18.4512 | 17.5108 | 19.4998 |
| 360064 | 20.6416 | 20.4846 | 20.0615 | 20.4087 |
| 360065 | 19.4531 | 20.0532 | 19.6199 | 19.7128 |
| 360066 | 20.0285 | 21.6015 | 22.8175 | 21.4937 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 360067 | 14.5687 | 15.3157 | 14.2745 | 14.7189 |
| 360068 | 21.2199 | 21.2789 | 22.6227 | 21.7164 |
| 360069 | 17.8329 | 16.6982 | 14.6597 | 16.2292 |
| 360070 | 17.5300 | 17.3758 | 18.8406 | 17.9171 |
| 360071 | 23.8013 | 17.9756 | 19.0302 | 20.2494 |
| 360072 | 17.9697 | 18.1467 | 19.0166 | 18.3995 |
| 360074 | 18.2614 | 20.8275 | 18.5889 | 19.1849 |
| 360075 | 18.4733 | 22.4523 | 26.0663 | 21.4074 |
| 360076 | 19.5864 | 20.0700 | 20.3317 | 20.0010 |
| 360077 | 20.8202 | 21.1053 | 21.5517 | 21.1550 |
| 360078 | 20.7940 | 21.4392 | 22.6490 | 21.6280 |
| 360079 | 22.0033 | 22.1096 | 21.6644 | 21.9274 |
| 360080 | 16.6414 | 17.3892 | 17.6369 | 17.2080 |
| 360081 | 19.6354 | 21.7342 | 20.4614 | 20.6451 |
| 360082 | 22.8585 | 22.9460 | 20.7610 | 22.1460 |
| 360083 | 18.4635 | * | * | 18.4635 |
| 360084 | 20.0914 | 20.4894 | 22.0492 | 20.8664 |
| 360085 | 21.6670 | 21.9051 | 21.5151 | 21.7121 |
| 360086 | 17.0389 | 19.5378 | 19.3701 | 18.5836 |
| 360087 | 20.0395 | 20.1684 | 20.7969 | 20.3249 |
| 360088 | 22.3121 | 24.0097 | 24.0822 | 23.4637 |
| 360089 | 20.5610 | 18.3881 | 18.1941 | 19.0415 |
| 360090 | 20.3955 | 21.0376 | 20.8971 | 20.7887 |
| 360091 | 21.0335 | 21.3126 | 21.8447 | 21.4132 |
| 360092 | 15.9095 | 20.4534 | 21.5073 | 18.9727 |
| 360093 | 18.5744 | 19.3292 | 19.0261 | 18.9905 |
| 360094 | 18.3105 | 18.8780 | 20.1227 | 19.0848 |
| 360095 | 18.7079 | 20.4149 | 19.8521 | 19.6643 |
| 360096 | 17.1617 | 18.2215 | 19.6726 | 18.3160 |
| 360098 | 18.3361 | 19.5314 | 19.8178 | 19.2371 |
| 360099 | 18.5523 | 18.5855 | 19.6241 | 18.9389 |
| 360100 | 17.6554 | 17.8989 | 18.0442 | 17.8625 |
| 360101 | 22.3121 | 21.3914 | 20.2635 | 21.3487 |
| 360102 | 19.7700 | 19.4345 | 18.5367 | 19.2837 |
| 360103 | 22.6228 | * | * | 22.6228 |
| 360106 | 16.1843 | 18.9752 | 19.1778 | 18.1964 |
| 360107 | 18.6195 | 19.7599 | 22.1359 | 20.1794 |
| 360108 | 16.5076 | 17.5832 | 20.0681 | 18.0497 |
| 360109 | 19.5162 | 20.1032 | 19.9237 | 19.8530 |
| 360112 | 22.5676 | 22.5589 | 24.6335 | 23.2167 |
| 360113 | 22.4584 | 24.2654 | 20.8154 | 22.4061 |
| 360114 | 16.3288 | 17.8761 | 18.7509 | 17.6758 |
| 360115 | 18.1859 | 18.8059 | 20.7652 | 19.2888 |
| 360116 | 18.0835 | 18.8882 | 18.8319 | 18.6000 |
| 360118 | 18.6098 | 19.3732 | 19.9141 | 19.3196 |
| 360121 | 21.0979 | 22.1093 | 22.2175 | 21.8088 |
| 360123 | 19.1313 | 20.3236 | 20.9792 | 20.1480 |
| 360125 | 18.1756 | 19.0774 | 20.5508 | 19.2432 |
| 360126 | 20.4558 | 19.0036 | 24.5387 | 21.1181 |
| 360127 | 16.9228 | 17.5882 | 16.5559 | 16.9955 |
| 360128 | 15.5823 | 16.1243 | 17.0515 | 16.2361 |
| 360129 | 15.5241 | 15.5002 | 16.6114 | 15.8783 |
| 360130 | 15.3356 | 17.2009 | 18.4539 | 16.9275 |
| 360131 | 18.2897 | 19.2241 | 18.4688 | 18.6543 |
| 360132 | 18.2733 | 19.9171 | 21.3493 | 19.8413 |
| 360133 | 19.0349 | 19.4316 | 20.2857 | 19.5509 |
| 360134 | 20.2383 | 20.6876 | 20.9564 | 20.6143 |
| 360136 | 17.8473 | 17.7827 | 18.2194 | 17.9464 |
| 360137 | 20.2581 | 20.1756 | 22.3648 | 20.9095 |
| 360140 | 19.1263 | 20.2791 | 21.2881 | 20.2299 |
| 360141 | 22.8496 | 23.0016 | 23.5343 | 23.1176 |
| 360142 | 17.3154 | 17.0059 | 18.3188 | 17.5468 |
| 360143 | 20.4378 | 20.1989 | 21.0336 | 20.5552 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 360144 | 21.9159 | 23.2191 | 20.9033 | 21.9858 |
| 360145 | 19.3907 | 19.6413 | 20.0513 | 19.6956 |
| 360147 | 16.5898 | 16.6616 | 17.6779 | 16.9779 |
| 360148 | 18.8914 | 19.2816 | 19.1393 | 19.1100 |
| 360149 | 18.7891 | 19.9808 | * | 19.3785 |
| 360150 | 20.6253 | 21.1327 | 22.3620 | 21.3641 |
| 360151 | 17.4863 | 16.6019 | 19.2788 | 17.7101 |
| 360152 | 21.9978 | 20.8328 | 21.6005 | 21.4611 |
| 360153 | 14.8948 | 15.4132 | 16.7399 | 15.6460 |
| 360154 | 13.7761 | 14.3270 | 14.3593 | 14.1608 |
| 360155 | 20.8977 | 22.5347 | 22.2112 | 21.8776 |
| 360156 | 17.9155 | 17.8787 | 18.9095 | 18.2225 |
| 360159 | 20.7119 | 20.2841 | 21.5695 | 20.8609 |
| 360161 | 19.4122 | 19.1983 | 20.6160 | 19.7228 |
| 360162 | 18.6084 | * | * | 18.6084 |
| 360163 | 20.3821 | 20.7275 | 21.2689 | 20.8164 |
| 360164 | 16.1643 | * | * | 16.1643 |
| 360165 | 19.4831 | 18.2571 | 18.2417 | 18.6524 |
| 360166 | 16.9778 | 18.7321 | * | 17.8568 |
| 360170 | 17.1779 | 16.4653 | 20.4407 | 17.9153 |
| 360172 | 18.4690 | 18.6720 | 19.8909 | 19.1486 |
| 360174 | 19.0887 | 19.9725 | 20.5399 | 20.0142 |
| 360175 | 20.4133 | 21.1685 | 21.5450 | 21.0739 |
| 360176 | 15.4730 | 15.9430 | 16.6228 | 16.0305 |
| 360177 | 19.4122 | 18.7898 | 18.9576 | 19.0368 |
| 360178 | 17.3985 | 18.8704 | 16.7962 | 17.7254 |
| 360179 | 19.1417 | 21.1309 | 20.7069 | 20.2966 |
| 360180 | 22.0949 | 21.3826 | 21.0146 | 21.4888 |
| 360184 | 19.3502 | 19.1224 | * | 19.2391 |
| 360185 | 18.6697 | 18.7291 | 19.4858 | 18.9599 |
| 360186 | 20.8579 | 18.3246 | 20.7572 | 19.9570 |
| 360187 | 18.0209 | 18.5109 | 19.6535 | 18.7427 |
| 360188 | 17.5327 | 17.1044 | 18.3057 | 17.6838 |
| 360189 | 17.3713 | 17.8981 | 18.5940 | 17.9373 |
| 360192 | 20.9980 | 21.6365 | 22.7846 | 21.8042 |
| 360193 | 17.6874 | * | * | 17.6874 |
| 360194 | 17.6890 | 17.1884 | 17.6140 | 17.4968 |
| 360195 | 19.0173 | 19.9302 | 20.5828 | 19.8368 |
| 360197 | 19.4250 | 20.0603 | 20.5062 | 19.9981 |
| 360200 | 17.7583 | 16.2306 | 17.9623 | 17.3129 |
| 360203 | 15.6212 | 16.3181 | 15.9609 | 15.9716 |
| 360204 | 19.3543 | 22.2494 | * | 20.5754 |
| 360210 | 20.2809 | 20.9955 | 21.8629 | 21.0428 |
| 360211 | 19.5762 | 19.9895 | 20.6081 | 20.0860 |
| 360212 | 20.2288 | 21.1123 | 20.6987 | 20.6781 |
| 360213 | 18.3253 | 19.4765 | 19.0584 | 18.9547 |
| 360218 | 18.4140 | 18.9469 | 18.8204 | 18.7231 |
| 360230 | 21.4385 | 21.9763 | 20.8042 | 21.3850 |
| 360231 | 13.5586 | 12.9588 | 14.4168 | 13.6102 |
| 360234 | 22.4324 | 23.2588 | 20.6131 | 22.0967 |
| 360236 | 19.4881 | 17.8426 | 21.4628 | 19.5088 |
| 360239 | 19.8584 | 20.1854 | 19.2375 | 19.7767 |
| 360241 | 22.0795 | 23.5318 | 25.3741 | 23.5406 |
| 360243 | 13.5835 | 14.8694 | * | 14.2018 |
| 360244 | 10.5518 | * | * | 10.5518 |
| 360245 | 15.0579 | 16.4622 | 15.9782 | 15.8310 |
| 360247 | 18.1116 | 16.3092 | 17.0776 | 17.0967 |
| 360248 | 21.6499 | * | * | 21.6499 |
| 360249 | * | * | 25.4331 | 25.4331 |
| 370001 | 21.2714 | 22.5214 | 24.1929 | 22.6419 |
| 370002 | 14.0847 | 14.7315 | 15.4333 | 14.7194 |
| 370004 | 16.7671 | 19.3236 | 18.5233 | 18.1546 |
| 370005 | 17.3817 | 15.1654 | 15.3881 | 15.9167 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 370006 | 12.9493 | 16.6484 | 16.4995 | 15.3118 |
| 370007 | 17.1535 | 15.2905 | 15.8312 | 16.0498 |
| 370008 | 17.3048 | 16.6566 | 17.5553 | 17.1688 |
| 370011 | 14.6397 | 14.9701 | 15.6178 | 15.0345 |
| 370012 | 10.8003 | 11.7265 | 12.4942 | 11.6228 |
| 370013 | 18.0385 | 19.3398 | 18.9584 | 18.7911 |
| 370014 | 19.6543 | 20.6512 | 20.2858 | 20.2276 |
| 370015 | 17.8247 | 17.0319 | 20.8765 | 18.5256 |
| 370016 | 16.6401 | 19.1191 | 19.1613 | 18.3470 |
| 370017 | 12.9837 | 12.6400 | 13.6531 | 13.1239 |
| 370018 | 14.2438 | 18.5107 | 17.7054 | 16.6955 |
| 370019 | 16.8801 | 14.2277 | 14.6216 | 15.1546 |
| 370020 | 13.4787 | 14.3798 | 15.1035 | 14.3356 |
| 370021 | 11.2639 | 12.0474 | 12.9030 | 12.0738 |
| 370022 | 17.9015 | 17.2344 | 17.3724 | 17.4872 |
| 370023 | 16.8215 | 17.7630 | 17.5148 | 17.3665 |
| 370025 | 16.3970 | 17.4988 | 18.4815 | 17.4661 |
| 370026 | 16.8991 | 18.3371 | 18.0412 | 17.7563 |
| 370028 | 19.7118 | 18.4445 | 21.1292 | 19.7322 |
| 370029 | 13.8930 | 16.4924 | 18.2580 | 16.0663 |
| 370030 | 15.4736 | 16.3269 | 16.5803 | 16.1058 |
| 370032 | 16.6432 | 18.2821 | 18.1538 | 17.7030 |
| 370033 | 12.3910 | 13.5216 | 11.3210 | 12.4595 |
| 370034 | 14.5101 | 15.6386 | 15.6288 | 15.2811 |
| 370035 | 18.9629 | 25.5764 | * | 21.9610 |
| 370036 | 11.4593 | 12.4026 | 12.4070 | 12.0833 |
| 370037 | 17.7491 | 16.7012 | 18.9556 | 17.7764 |
| 370038 | 12.8135 | 13.3084 | 13.0210 | 13.0660 |
| 370039 | 16.2661 | 15.5206 | 19.4498 | 17.0406 |
| 370040 | 14.2582 | 14.4672 | 15.5109 | 14.7638 |
| 370041 | 17.4123 | 16.7356 | 16.2316 | 16.8488 |
| 370042 | 14.6146 | 14.9175 | 15.2764 | 14.9764 |
| 370043 | 16.0764 | 15.9534 | 17.0892 | 16.3549 |
| 370045 | 12.4352 | 10.1994 | 11.3560 | 11.2236 |
| 370046 | 18.1499 | 18.8334 | * | 18.4831 |
| 370047 | 15.6716 | 16.7554 | 17.8769 | 16.7444 |
| 370048 | 17.4356 | 18.2150 | 15.6803 | 17.1206 |
| 370049 | 19.8397 | 20.7176 | 19.4868 | 19.9892 |
| 370051 | 12.1816 | 11.6736 | 12.5171 | 12.1083 |
| 370054 | 16.5598 | 16.9049 | 18.0787 | 17.1343 |
| 370056 | 18.8774 | 18.4558 | 18.1432 | 18.4804 |
| 370057 | 14.6564 | 16.7261 | 15.1228 | 15.5054 |
| 370059 | 16.4578 | 18.1386 | 18.3314 | 17.6259 |
| 370060 | 15.1169 | 16.5403 | 19.3051 | 16.8157 |
| 370063 | 17.0645 | 14.4132 | 16.7342 | 16.0603 |
| 370064 | 8.7499 | 10.9676 | 11.9954 | 10.6741 |
| 370065 | 16.5638 | 16.6898 | 18.1349 | 17.1281 |
| 370071 | 14.9472 | 16.1439 | 16.4567 | 15.8354 |
| 370072 | 14.6497 | 14.4742 | 13.6519 | 14.2760 |
| 370076 | 12.8568 | 13.5694 | 14.3555 | 13.5818 |
| 370077 | 17.6236 | * | * | 17.6236 |
| 370078 | 17.2370 | 18.4086 | 19.2412 | 18.2505 |
| 370079 | 13.5976 | 16.6861 | 16.9201 | 15.7005 |
| 370080 | 14.3445 | 13.9239 | 14.7323 | 14.3058 |
| 370082 | 13.5434 | 13.9634 | 15.0669 | 14.1855 |
| 370083 | 11.4905 | 13.1519 | 13.1810 | 12.6268 |
| 370084 | 21.7484 | 22.0545 | 13.1197 | 17.8063 |
| 370085 | 11.8844 | 11.2842 | 48.1271 | 14.9179 |
| 370086 | 13.5646 | 15.4404 | 11.1900 | 13.1933 |
| 370089 | 14.4968 | 16.0966 | 17.2638 | 15.9758 |
| 370091 | 17.5839 | 19.1698 | 20.1822 | 18.9743 |
| 370092 | 14.6757 | 14.9802 | 15.7678 | 15.1529 |
| 370093 | 18.5747 | 18.4600 | 19.7008 | 19.0469 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 370094 | 18.3796 | 18.0002 | 19.5462 | 18.6588 |
| 370095 | 14.1319 | 12.6383 | 13.4202 | 13.3755 |
| 370097 | 23.3116 | 22.9714 | 23.2056 | 23.1716 |
| 370099 | 16.2649 | 15.4549 | 19.4646 | 16.8783 |
| 370100 | 17.1036 | 14.0168 | 18.8274 | 16.6764 |
| 370103 | 15.8967 | 19.2353 | 18.2685 | 17.7516 |
| 370105 | 17.6811 | 21.3352 | 20.7890 | 19.9853 |
| 370106 | 18.6238 | 18.5485 | 20.3651 | 19.1398 |
| 370108 | 12.2379 | 12.3279 | 12.7470 | 12.4421 |
| 370112 | 15.2488 | 14.8539 | 15.3039 | 15.1287 |
| 370113 | 16.2043 | 16.1046 | 17.6107 | 16.6143 |
| 370114 | 15.9801 | 16.5268 | 17.8941 | 16.8136 |
| 370121 | 19.5506 | 22.5611 | 21.3099 | 21.1472 |
| 370122 | 12.1514 | 15.0645 | 15.4375 | 13.9736 |
| 370123 | 16.3609 | 18.9159 | 19.0313 | 18.0343 |
| 370125 | 13.5453 | 15.6284 | 13.9436 | 14.3107 |
| 370126 | 18.2447 | 23.9654 | 15.8020 | 19.1824 |
| 370131 | 16.2403 | 17.5689 | 15.7261 | 16.4650 |
| 370133 | 10.0169 | 10.9575 | 12.9545 | 11.1921 |
| 370138 | 15.9372 | 16.4005 | 17.5551 | 16.6500 |
| 370139 | 13.3023 | 14.8612 | 14.9964 | 14.3624 |
| 370140 | 15.2265 | 16.0721 | 17.1393 | 16.1657 |
| 370141 | 12.1420 | 18.4101 | 20.7798 | 16.3574 |
| 370146 | 12.5581 | 12.6402 | 13.0399 | 12.7467 |
| 370148 | 16.4147 | 20.6458 | 20.6612 | 19.2220 |
| 370149 | 16.7218 | 16.1850 | 17.0929 | 16.6647 |
| 370153 | 15.3218 | 17.8352 | 16.4669 | 16.5507 |
| 370154 | 15.9128 | 15.5127 | 15.6093 | 15.6789 |
| 370156 | 13.6363 | 13.9255 | 14.5696 | 14.0273 |
| 370158 | 15.0865 | 15.6917 | 15.6994 | 15.4906 |
| 370159 | 17.8319 | 28.0536 | 21.1267 | 21.7006 |
| 370163 | 14.5609 | 17.6361 | 20.4217 | 17.2893 |
| 370165 | 13.2174 | 13.0910 | 13.0375 | 13.1156 |
| 370166 | 17.8154 | 17.2849 | 21.0797 | 18.6456 |
| 370169 | 9.4807 | 12.5243 | 12.7138 | 11.5273 |
| 370176 | 16.0355 | 15.9476 | 18.9951 | 16.9629 |
| 370177 | 11.8757 | 11.2536 | 14.6481 | 12.5743 |
| 370178 | 11.6384 | 10.5726 | 11.6200 | 11.2422 |
| 370179 | 19.2677 | 17.2829 | 21.3002 | 18.9651 |
| 370183 | 7.6164 | 10.2945 | 16.9318 | 11.0088 |
| 370186 | 13.3454 | 13.6192 | 15.4533 | 14.1321 |
| 370190 | 13.7032 | 14.1397 | 19.3570 | 15.3737 |
| 370192 | 16.7402 | 18.4614 | 19.6967 | 18.2866 |
| 370197 | 21.5718 | * | * | 21.5718 |
| 370198 | * | 21.3136 | * | 21.3136 |
| 370200 | * | * | 22.5299 | 22.5299 |
| 380001 | 22.0255 | 20.3127 | 26.4822 | 22.5494 |
| 380002 | 19.4764 | 24.0241 | 21.9185 | 21.9840 |
| 380003 | 24.7434 | 21.7826 | 20.9007 | 22.2865 |
| 380004 | 23.1432 | 23.1451 | 23.3609 | 23.2208 |
| 380005 | 23.2415 | 24.0838 | 25.0750 | 24.1485 |
| 380006 | 20.5375 | 21.2731 | 21.3520 | 21.0653 |
| 380007 | 24.2933 | 25.2995 | 32.2678 | 27.0282 |
| 380008 | 21.1888 | 20.7063 | 22.3004 | 21.4082 |
| 380009 | 25.1702 | 23.8104 | 24.3851 | 24.4234 |
| 380010 | 19.7477 | 23.7488 | 22.7276 | 21.8451 |
| 380011 | 21.1353 | 21.1151 | 20.3357 | 20.8683 |
| 380013 | 20.1038 | 18.6818 | 19.8180 | 19.5721 |
| 380014 | 23.4819 | 24.6574 | 25.9828 | 24.7413 |
| 380017 | 23.8231 | 26.0578 | 25.3954 | 25.0552 |
| 380018 | 22.0776 | 22.3525 | 22.9822 | 22.4971 |
| 380019 | 20.7700 | 22.1215 | 20.8176 | 21.2209 |
| 380020 | 21.3556 | 20.1464 | 22.9568 | 21.5448 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 380021 | 20.6358 | 21.1590 | 23.8499 | 21.8371 |
| 380022 | 21.6110 | 22.6408 | 24.5974 | 22.8841 |
| 380023 | 19.2357 | 20.5462 | 21.3831 | 20.3976 |
| 380025 | 24.6738 | 26.3652 | 26.9346 | 25.9824 |
| 380026 | 19.2663 | 20.4706 | 20.6972 | 20.1525 |
| 380027 | 20.1576 | 20.8647 | 21.5490 | 20.8958 |
| 380029 | 18.5699 | 19.4246 | 20.1471 | 19.4015 |
| 380031 | 22.8346 | 23.3181 | 20.3396 | 22.1492 |
| 380033 | 23.2881 | 25.2454 | 27.1343 | 25.1500 |
| 380035 | 21.6533 | 22.4099 | 23.9719 | 22.6232 |
| 380036 | 19.3269 | 27.1587 | 27.2157 | 23.8613 |
| 380037 | 21.2347 | 21.9158 | 22.1774 | 21.7911 |
| 380038 | 25.5750 | 26.0869 | 26.7759 | 26.1419 |
| 380039 | 22.1235 | 23.1746 | 22.8048 | 22.6937 |
| 380040 | 21.6378 | 26.2717 | 22.5477 | 23.4095 |
| 380042 | 19.8096 | 21.1176 | 24.4172 | 21.7244 |
| 380047 | 21.9511 | 23.0718 | 24.2524 | 23.1258 |
| 380048 | 18.3847 | 17.5885 | 18.3005 | 18.0671 |
| 380050 | 18.2486 | 20.3934 | 20.3205 | 19.6254 |
| 380051 | 21.2358 | 22.3568 | 22.3207 | 21.9927 |
| 380052 | 17.8741 | 19.4570 | 18.6299 | 18.6300 |
| 380055 | 21.2459 | * | * | 21.2459 |
| 380056 | 17.1600 | 19.5185 | 18.4961 | 18.3892 |
| 380060 | 23.2923 | 24.2670 | 24.2059 | 23.9182 |
| 380061 | 22.5983 | 22.3736 | 22.8781 | 22.6217 |
| 380062 | 18.5229 | 20.7716 | 18.2148 | 19.1910 |
| 380063 | 19.3566 | 20.4077 | * | 19.9113 |
| 380064 | 19.8719 | 19.9826 | 22.9160 | 20.8404 |
| 380065 | 22.1706 | 26.1404 | 22.9608 | 23.6770 |
| 380066 | 20.4189 | 22.0349 | 23.2794 | 21.9793 |
| 380068 | 22.7573 | 22.3178 | * | 22.5559 |
| 380069 | 19.5793 | 19.8300 | 20.4882 | 19.9809 |
| 380070 | 24.7116 | 27.2541 | 27.7790 | 26.6130 |
| 380071 | 20.4707 | 22.6386 | 25.1808 | 22.8743 |
| 380072 | 16.3169 | 19.1553 | 19.4346 | 18.3236 |
| 380075 | 22.1703 | 22.3625 | 22.4139 | 22.3203 |
| 380078 | 19.1035 | 20.2507 | 21.0903 | 20.1439 |
| 380081 | 20.5902 | 20.9882 | 20.4082 | 20.6790 |
| 380082 | 22.5856 | 22.2275 | 22.9606 | 22.5990 |
| 380083 | 21.8096 | 21.3859 | 21.7431 | 21.6440 |
| 380084 | 23.6412 | 24.2844 | 27.1689 | 24.9815 |
| 380087 | 14.0976 | 16.5309 | 17.0380 | 15.8783 |
| 380088 | 19.5204 | 21.5225 | 19.5346 | 20.1728 |
| 380089 | 23.7413 | 19.5255 | 25.2908 | 23.0572 |
| 380090 | 27.0867 | 29.2702 | 24.9351 | 26.9453 |
| 380091 | 22.8333 | 27.5560 | 25.3062 | 25.1774 |
| 390001 | 18.6384 | 19.2989 | 19.6732 | 19.2277 |
| 390002 | 18.0787 | 21.8353 | 19.7833 | 19.8184 |
| 390003 | 17.2435 | 17.1371 | 18.1025 | 17.4798 |
| 390004 | 18.8899 | 19.2277 | 20.3204 | 19.4755 |
| 390005 | 16.4459 | 17.3506 | 16.9472 | 16.9256 |
| 390006 | 19.6012 | 20.2959 | 21.1786 | 20.3254 |
| 390007 | 21.4093 | 21.7506 | 21.3839 | 21.5152 |
| 390008 | 16.7440 | 17.8297 | 18.2743 | 17.6097 |
| 390009 | 20.1181 | 20.6507 | 20.6241 | 20.4567 |
| 390010 | 17.2315 | 17.5127 | 17.3335 | 17.3583 |
| 390011 | 18.0683 | 18.1717 | 18.3257 | 18.1941 |
| 390012 | 20.0227 | 20.6523 | 21.0610 | 20.5672 |
| 390013 | 19.3300 | 19.2698 | 19.6562 | 19.4200 |
| 390015 | 12.9372 | 13.1337 | 13.7352 | 13.2647 |
| 390016 | 17.0679 | 16.9892 | 17.1133 | 17.0565 |
| 390017 | 16.2170 | 16.7493 | 18.6113 | 17.1752 |
| 390018 | 19.1241 | 21.3626 | 19.0279 | 19.8558 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 390019 | 16.3965 | 16.7848 | 17.7258 | 16.9784 |
| 390022 | 22.8967 | 21.5064 | 24.8468 | 23.0587 |
| 390023 | 19.5639 | 21.8270 | 22.1044 | 21.4167 |
| 390024 | 25.0359 | 24.9437 | 25.4606 | 25.1433 |
| 390025 | 15.7111 | 15.6155 | 15.5523 | 15.6287 |
| 390026 | 22.7645 | 22.3902 | 22.9718 | 22.7143 |
| 390027 | 27.6893 | 26.8878 | 29.5940 | 28.0411 |
| 390028 | 20.1087 | 22.7700 | 23.6571 | 22.0510 |
| 390029 | 19.6883 | 21.5729 | 21.2661 | 20.8012 |
| 390030 | 18.3978 | 17.9580 | 18.6887 | 18.3432 |
| 390031 | 19.5175 | 19.2755 | 18.8162 | 19.2068 |
| 390032 | 18.1492 | 17.8041 | 21.5105 | 19.0439 |
| 390035 | 18.5146 | 20.2029 | 22.3591 | 20.2740 |
| 390036 | 18.8657 | 19.9880 | 19.7671 | 19.5278 |
| 390037 | 22.2359 | 21.0616 | 20.4263 | 21.2243 |
| 390039 | 16.5438 | 17.1046 | 17.5300 | 17.0475 |
| 390040 | 15.1211 | 15.9612 | 16.6876 | 15.9078 |
| 390041 | 19.5760 | 19.8080 | 20.4397 | 19.9243 |
| 390042 | 21.1276 | 22.7693 | 22.5775 | 22.1662 |
| 390043 | 16.3561 | 17.2607 | 17.4764 | 17.0230 |
| 390044 | 19.5419 | 20.2813 | 20.9831 | 20.2788 |
| 390045 | 18.4591 | 18.5574 | 19.4677 | 18.8305 |
| 390046 | 20.4608 | 20.7303 | 21.7445 | 20.9727 |
| 390047 | 24.5824 | 27.6661 | 26.9709 | 26.2900 |
| 390048 | 18.3801 | 19.0920 | 19.7992 | 19.0527 |
| 390049 | 21.1318 | 21.1217 | 22.1586 | 21.4802 |
| 390050 | 20.9240 | 22.8808 | 22.2639 | 22.0253 |
| 390051 | 26.0485 | 25.7910 | 28.1385 | 26.5675 |
| 390052 | 17.0988 | 20.9306 | 20.1195 | 19.3733 |
| 390054 | 17.4382 | 17.8852 | 18.4975 | 17.9431 |
| 390055 | 25.8961 | 24.2211 | 23.4017 | 24.4911 |
| 390056 | 17.1692 | 17.7858 | 19.3901 | 18.0977 |
| 390057 | 19.7459 | 20.2059 | 20.2395 | 20.0600 |
| 390058 | 19.2543 | 19.7379 | 20.3520 | 19.7916 |
| 390060 | 13.6276 | * | * | 13.6276 |
| 390061 | 20.4819 | 21.2392 | 23.8722 | 21.8310 |
| 390062 | 16.4505 | 16.6721 | 17.3750 | 16.8291 |
| 390063 | 19.6373 | 20.0125 | 19.4965 | 19.7211 |
| 390065 | 20.0001 | 19.9361 | 20.0473 | 19.9948 |
| 390066 | 18.7064 | 19.8539 | 18.9296 | 19.1567 |
| 390067 | 20.6515 | 20.9688 | 20.8162 | 20.8116 |
| 390068 | 17.5524 | 18.3158 | 19.1109 | 18.3267 |
| 390069 | 19.2858 | 19.6466 | * | 19.4555 |
| 390070 | 20.1862 | 16.1988 | 21.8549 | 19.3957 |
| 390071 | 16.2298 | 15.7165 | 16.0100 | 15.9856 |
| 390072 | 15.5565 | 16.3133 | 16.9232 | 16.2264 |
| 390073 | 20.6859 | 20.5581 | 21.2623 | 20.8422 |
| 390074 | 16.5971 | 18.4806 | 18.3093 | 17.7465 |
| 390075 | 17.2676 | 17.9840 | 18.7695 | 17.9105 |
| 390076 | 21.4307 | 20.2475 | 21.3290 | 20.9889 |
| 390078 | 18.2328 | 19.2089 | 19.0156 | 18.8052 |
| 390079 | 18.1969 | 18.3312 | 18.9269 | 18.4731 |
| 390080 | 19.5180 | 18.8028 | 21.4707 | 19.8661 |
| 390081 | 23.9922 | 24.8351 | 24.7461 | 24.5194 |
| 390083 | 20.5919 | * | * | 20.5919 |
| 390084 | 16.3463 | 16.4026 | 20.2529 | 17.4556 |
| 390086 | 17.2481 | 18.5265 | 18.3563 | 18.0522 |
| 390088 | 23.4941 | 23.6173 | 23.9506 | 23.6668 |
| 390090 | 20.6463 | 21.6437 | 21.3759 | 21.2068 |
| 390091 | 18.3746 | 18.1569 | 18.3770 | 18.3019 |
| 390093 | 16.6336 | 17.7171 | 18.4442 | 17.6019 |
| 390095 | 13.0459 | 16.3357 | 16.6930 | 15.2335 |
| 390096 | 19.3118 | 19.1171 | 22.4382 | 20.4516 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 390097 | 21.4115 | 23.5963 | 25.2845 | 23.2449 |
| 390100 | 20.3014 | 20.7859 | 20.9263 | 20.6729 |
| 390101 | 17.0534 | 17.9499 | 18.5039 | 17.8169 |
| 390102 | 19.4924 | 19.0461 | 21.5496 | 20.0293 |
| 390103 | 17.7054 | 18.4312 | 18.8667 | 18.3176 |
| 390104 | 15.9605 | 15.9008 | 16.3255 | 16.0548 |
| 390106 | 16.2783 | 16.6666 | 16.8439 | 16.6044 |
| 390107 | 19.1793 | 19.5178 | 20.9841 | 19.9123 |
| 390108 | 21.2872 | 21.0899 | 21.3142 | 21.2288 |
| 390109 | 14.6645 | 16.4597 | 16.5299 | 15.8639 |
| 390110 | 21.3191 | 21.5282 | 21.6464 | 21.5043 |
| 390111 | 28.7875 | 27.5193 | 33.3971 | 29.8383 |
| 390112 | 14.0439 | 14.9427 | 15.0065 | 14.6808 |
| 390113 | 17.9377 | 19.1945 | 19.3634 | 18.8262 |
| 390114 | 22.9698 | 19.6295 | 20.9533 | 21.1250 |
| 390115 | 24.7244 | 23.3461 | 21.4287 | 23.0792 |
| 390116 | 20.6016 | 21.4877 | 21.3671 | 21.1457 |
| 390117 | 16.9036 | 17.9393 | 18.0769 | 17.6425 |
| 390118 | 16.8962 | 18.3440 | 18.9507 | 18.0638 |
| 390119 | 18.5935 | 18.2951 | 18.8815 | 18.5863 |
| 390121 | 18.6422 | 20.8780 | 19.1315 | 19.5644 |
| 390122 | 17.4645 | 17.1902 | 17.7734 | 17.4764 |
| 390123 | 20.8412 | 20.8344 | 21.3974 | 21.0254 |
| 390125 | 15.9356 | 16.7983 | 17.5446 | 16.7393 |
| 390126 | 20.9383 | 20.6498 | * | 20.8020 |
| 390127 | 21.8849 | 21.7724 | 22.4555 | 22.0398 |
| 390128 | 19.4132 | 19.6792 | 19.3165 | 19.4699 |
| 390130 | 17.3253 | 17.7049 | 18.3695 | 17.7936 |
| 390131 | 16.8349 | 16.0986 | 19.2096 | 17.3202 |
| 390132 | 20.5528 | 21.1931 | 22.8414 | 21.4849 |
| 390133 | 24.6131 | 23.3489 | 24.7561 | 24.1960 |
| 390135 | 21.2497 | 21.5782 | 22.1905 | 21.6491 |
| 390136 | 17.6128 | 16.9737 | 20.6286 | 18.3801 |
| 390137 | 16.5598 | 17.5687 | 18.5397 | 17.5480 |
| 390138 | 18.8601 | 19.6212 | 20.6936 | 19.7394 |
| 390139 | 22.9351 | 24.4515 | 23.9757 | 23.7712 |
| 390142 | 26.7954 | 26.8086 | 28.8877 | 27.5656 |
| 390145 | 20.3393 | 20.3731 | 20.4228 | 20.3787 |
| 390146 | 17.7020 | 18.7922 | 18.6505 | 18.3503 |
| 390147 | 21.1085 | 20.9651 | 21.2492 | 21.1067 |
| 390150 | 19.6575 | 20.7294 | 20.3155 | 20.2474 |
| 390151 | 20.5084 | 21.6000 | 22.5206 | 21.5535 |
| 390152 | 19.1525 | 20.3353 | 19.4017 | 19.6203 |
| 390153 | 23.1183 | 23.7013 | 22.9707 | 23.2621 |
| 390154 | 15.8478 | 17.4036 | 16.7052 | 16.6538 |
| 390156 | 21.1629 | 21.8498 | 22.6398 | 21.8660 |
| 390157 | 19.8268 | 19.6578 | 19.1783 | 19.5633 |
| 390158 | 21.6045 | * | * | 21.6045 |
| 390160 | 20.7676 | 21.4810 | 19.4463 | 20.4967 |
| 390161 | 12.3743 | 16.4799 | * | 14.3389 |
| 390162 | 21.0228 | 21.4095 | 21.9188 | 21.4386 |
| 390163 | 15.6227 | 16.8013 | 17.7564 | 16.7297 |
| 390164 | 21.5890 | 24.6765 | 24.9750 | 23.5327 |
| 390166 | 19.9612 | 19.0405 | 19.7978 | 19.5957 |
| 390167 | 22.9136 | 19.8973 | * | 21.3982 |
| 390168 | 18.9936 | 18.7400 | 18.8863 | 18.8736 |
| 390169 | 18.9878 | 20.2382 | 22.0547 | 20.4487 |
| 390170 | 22.9877 | 26.5891 | 24.7973 | 24.6450 |
| 390173 | 17.8568 | 18.5370 | 18.6613 | 18.3502 |
| 390174 | 25.2407 | 25.4189 | 25.3307 | 25.3310 |
| 390176 | 17.3577 | 17.8740 | 20.8368 | 18.6587 |
| 390178 | 17.7036 | 16.6993 | 17.0534 | 17.1490 |
| 390179 | 21.4093 | 21.6901 | 21.8593 | 21.6579 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 390180 | 25.1191 | 25.7074 | 26.5541 | 25.8271 |
| 390181 | 17.0860 | 19.4654 | 19.3832 | 18.6237 |
| 390183 | 19.0834 | 17.8306 | 17.9848 | 18.2942 |
| 390184 | 20.7489 | 20.8060 | 20.9349 | 20.8256 |
| 390185 | 17.6516 | 18.8798 | 20.3877 | 18.9752 |
| 390189 | 18.6668 | 20.0889 | 20.3338 | 19.6907 |
| 390191 | 16.1993 | 16.3240 | 17.2270 | 16.5760 |
| 390192 | 16.3696 | 17.4537 | 17.6597 | 17.1476 |
| 390193 | 16.4663 | 16.7874 | 18.1209 | 17.0634 |
| 390194 | 20.1547 | 20.7953 | 21.2689 | 20.7092 |
| 390195 | 23.6920 | 24.6855 | 24.1793 | 24.1876 |
| 390197 | 18.9857 | 19.2690 | 20.7998 | 19.6927 |
| 390198 | 15.4508 | 15.9721 | 15.8833 | 15.7671 |
| 390199 | 16.6644 | 17.0515 | 17.3865 | 17.0306 |
| 390200 | 13.5898 | 15.1399 | 15.4012 | 14.7971 |
| 390201 | 20.5011 | 20.6296 | 20.3533 | 20.4916 |
| 390203 | 21.1895 | 20.9432 | 21.4989 | 21.2088 |
| 390204 | 20.8483 | 20.1779 | 22.9616 | 21.3067 |
| 390206 | 18.5746 | 18.4027 | * | 18.4910 |
| 390209 | 16.9558 | 17.4792 | 18.7059 | 17.7155 |
| 390211 | 17.9132 | 17.8638 | 18.4213 | 18.0846 |
| 390213 | 17.4453 | 18.8555 | 19.1553 | 18.5312 |
| 390215 | 21.4291 | 20.7084 | 21.2032 | 21.1048 |
| 390217 | 19.2926 | 19.1406 | 19.9837 | 19.4647 |
| 390219 | 21.6295 | 18.8292 | 19.6226 | 19.9600 |
| 390220 | 18.5178 | 18.7178 | 17.7916 | 18.3301 |
| 390222 | 20.9080 | 21.5739 | 22.1548 | 21.5483 |
| 390223 | 22.6498 | 23.6482 | 22.1775 | 22.7892 |
| 390224 | 15.9058 | 15.3015 | 13.7518 | 14.9518 |
| 390225 | 18.1752 | 18.6125 | 18.7290 | 18.5053 |
| 390226 | 23.1638 | 21.8268 | 21.8481 | 22.2835 |
| 390228 | 19.8129 | 19.4083 | 19.8180 | 19.6802 |
| 390231 | 24.4852 | 22.7544 | 19.4798 | 21.9903 |
| 390233 | 18.7707 | 19.4887 | 20.2309 | 19.5042 |
| 390235 | 24.6044 | 25.0857 | 21.4200 | 24.0078 |
| 390236 | 17.0339 | 16.2397 | 17.8735 | 17.0494 |
| 390237 | 21.7479 | 19.5230 | 22.3011 | 21.1430 |
| 390238 | * | 17.8211 | 17.1055 | 17.4821 |
| 390242 | 18.0943 | * | * | 18.0943 |
| 390244 | 14.4133 | 15.4611 | 15.6402 | 15.1810 |
| 390245 | 20.1544 | 26.0194 | 24.5076 | 23.4886 |
| 390246 | 17.9214 | 18.9733 | 25.0556 | 20.2904 |
| 390247 | 20.6671 | 20.9526 | 21.2151 | 20.8919 |
| 390249 | 10.7336 | 12.7920 | 13.1657 | 12.2298 |
| 390256 | 23.7828 | 20.9469 | 22.2773 | 22.2601 |
| 390258 | 21.3629 | 21.9207 | 22.6852 | 21.9998 |
| 390260 | 21.1917 | 21.9509 | 21.5982 | 21.5728 |
| 390262 | 18.6684 | 18.2379 | * | 18.4504 |
| 390263 | 20.0939 | 20.6855 | 20.3796 | 20.3890 |
| 390265 | 19.5089 | 20.3580 | 20.4950 | 20.1207 |
| 390266 | 16.2372 | 17.1666 | 17.1966 | 16.8552 |
| 390267 | 20.5125 | 21.2974 | 19.2665 | 20.4773 |
| 390268 | 21.0161 | 21.3486 | 22.0909 | 21.4791 |
| 390270 | 17.8280 | 19.0925 | 19.2074 | 18.7055 |
| 390277 | 27.0983 | * | * | 27.0983 |
| 390278 | 19.2019 | 18.2865 | 17.7176 | 18.4620 |
| 390279 | 13.6992 | 14.3241 | 14.8655 | 14.2998 |
| 390283 | * | * | 22.5490 | 22.5490 |
| 390284 | * | * | 34.3904 | 34.3904 |
| 400001 | 9.8615 | 9.9463 | 10.5757 | 10.1359 |
| 400002 | 9.3063 | 10.1417 | 13.0494 | 10.8249 |
| 400003 | 9.9865 | 10.8821 | 12.4078 | 11.0633 |
| 400004 | 8.4811 | 8.9864 | 8.5648 | 8.6695 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 400005 | 7.8494 | 9.5632 | 7.7432 | 8.3858 |
| 400006 | 10.5281 | 10.3444 | 10.1048 | 10.3288 |
| 400007 | 7.8637 | 6.4490 | 8.0174 | 7.3754 |
| 400009 | 8.3727 | 8.4207 | 8.8650 | 8.5497 |
| 400010 | 11.6642 | 10.6518 | 10.8011 | 10.9779 |
| 400011 | 5.6825 | 7.4979 | 8.5426 | 7.2512 |
| 400012 | 7.8134 | 8.2412 | 8.4728 | 8.1883 |
| 400013 | 8.2066 | 8.4579 | 9.2624 | 8.6839 |
| 400014 | 9.5354 | 9.5235 | 9.4798 | 9.5126 |
| 400015 | 10.3326 | 10.9505 | 14.4076 | 11.3577 |
| 400016 | 12.0743 | 13.2756 | 13.3922 | 12.9125 |
| 400017 | 8.5675 | 8.6421 | 9.2577 | 8.8024 |
| 400018 | 9.4534 | 10.4557 | 10.6208 | 10.1978 |
| 400019 | 10.1512 | 10.4332 | 10.8940 | 10.5307 |
| 400021 | 9.9121 | 10.6988 | 12.1434 | 10.9538 |
| 400022 | 11.1204 | 11.5861 | 12.2199 | 11.6336 |
| 400024 | 7.5594 | 7.8984 | 9.2409 | 8.1615 |
| 400026 | 7.1236 | 5.6454 | 5.8335 | 6.1312 |
| 400027 | 8.4862 | 9.5899 | * | 9.0120 |
| 400028 | 8.3991 | 8.8597 | 9.1794 | 8.7817 |
| 400031 | 9.7826 | 8.2660 | * | 8.9857 |
| 400032 | 9.7291 | 10.5498 | 10.0448 | 10.1074 |
| 400044 | 11.7484 | 11.9704 | 11.9486 | 11.8844 |
| 400048 | 8.9224 | 9.1701 | 15.1405 | 10.3604 |
| 400061 | 12.2770 | 12.4493 | 13.0988 | 12.5813 |
| 400079 | 7.0830 | * | 9.7203 | 8.1082 |
| 400087 | 10.3972 | 9.5097 | 9.8534 | 9.8687 |
| 400094 | 7.8208 | 8.9116 | 7.9187 | 8.1829 |
| 400098 | 7.2098 | 9.3308 | 9.7791 | 8.8630 |
| 400102 | 7.7288 | 9.8536 | 9.9903 | 9.1668 |
| 400103 | 10.7316 | 11.2069 | 11.5359 | 11.1167 |
| 400104 | 9.9416 | 11.0672 | 10.7292 | 10.5214 |
| 400105 | 10.1726 | 9.3049 | 9.0556 | 9.5335 |
| 400106 | 8.5143 | 9.3123 | 9.2187 | 9.0108 |
| 400109 | 10.1786 | 10.9826 | 11.8760 | 11.0486 |
| 400110 | 10.5250 | 10.3326 | 10.5277 | 10.4760 |
| 400111 | 9.5600 | 9.5583 | 10.9665 | 10.1021 |
| 400112 | 12.8478 | 10.1755 | 10.8694 | 11.2941 |
| 400113 | 9.4835 | 9.2238 | 8.3168 | 9.0068 |
| 400114 | 6.4076 | 9.0496 | 7.0510 | 7.4630 |
| 400115 | 9.1311 | 9.8244 | 8.5487 | 9.1780 |
| 400117 | 10.0381 | 10.2295 | 10.8756 | 10.3823 |
| 400118 | 8.6964 | 9.4398 | 11.4051 | 9.9004 |
| 400120 | 9.7425 | 9.5274 | 10.6584 | 9.9956 |
| 400121 | 7.1061 | 7.8052 | 9.8322 | 8.2686 |
| 400122 | 8.4806 | 8.1911 | 7.6413 | 8.0571 |
| 400123 | 9.0217 | 7.8099 | 10.2367 | 9.0130 |
| 400124 | 11.4839 | 12.0999 | 12.2452 | 11.9729 |
| 400125 | * | * | 10.2056 | 10.2056 |
| 410001 | 22.5322 | 23.2808 | 23.1738 | 23.0006 |
| 410004 | 22.3212 | 22.4801 | 21.0638 | 22.0103 |
| 410005 | 21.2407 | 23.1444 | 22.7170 | 22.3365 |
| 410006 | 21.9798 | 23.3968 | 23.8700 | 23.0621 |
| 410007 | 20.9489 | 22.1452 | 23.1325 | 22.1106 |
| 410008 | 22.6133 | 23.0662 | 24.9726 | 23.5244 |
| 410009 | 24.0769 | 24.4899 | 24.3895 | 24.3200 |
| 410010 | 27.1426 | 26.9813 | 28.4589 | 27.5328 |
| 410011 | 24.3676 | 25.2926 | 26.1183 | 25.2512 |
| 410012 | 21.3337 | 24.5811 | 24.1695 | 23.4018 |
| 410013 | 25.0050 | 24.5122 | 24.8800 | 24.7951 |
| 420002 | 20.2049 | 19.4845 | 20.7804 | 20.1513 |
| 420004 | 19.4079 | 19.7968 | 20.9588 | 20.0732 |
| 420005 | 15.9906 | 17.3510 | 17.9694 | 17.1171 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 420006 | 18.2374 | 18.3439 | 19.1760 | 18.5687 |
| 420007 | 17.5783 | 18.2096 | 18.6456 | 18.1319 |
| 420009 | 17.2515 | 18.5456 | 19.9586 | 18.6114 |
| 420010 | 17.9141 | 17.1184 | 18.0252 | 17.6914 |
| 420011 | 14.9944 | 16.5664 | 18.0970 | 16.4913 |
| 420014 | 16.7219 | 16.6065 | 18.0519 | 17.0894 |
| 420015 | 17.1802 | 18.8411 | 20.1164 | 18.5841 |
| 420016 | 18.1451 | 15.6241 | 15.5485 | 16.2939 |
| 420018 | 19.7285 | 19.7367 | 21.8775 | 20.3791 |
| 420019 | 15.5521 | 16.9990 | 17.1726 | 16.5419 |
| 420020 | 17.9011 | 20.9449 | 20.3193 | 19.6942 |
| 420023 | 20.9663 | 19.4855 | 20.4053 | 20.2598 |
| 420026 | 21.8968 | 20.3476 | 21.8749 | 21.3678 |
| 420027 | 18.0774 | 18.8457 | 19.2594 | 18.7307 |
| 420029 | 18.3557 | * | * | 18.3557 |
| 420030 | 17.8215 | 19.1453 | 20.6448 | 19.3038 |
| 420031 | 13.0718 | 14.1855 | 8.2516 | 11.1227 |
| 420033 | 21.0863 | 21.7279 | 23.1303 | 21.9705 |
| 420036 | 19.7421 | 17.6136 | 21.3222 | 19.4565 |
| 420037 | 21.9603 | 21.7908 | 22.7099 | 22.1669 |
| 420038 | 16.1498 | 17.6726 | 18.6568 | 17.4393 |
| 420039 | 16.9646 | 15.8385 | 18.3017 | 17.0260 |
| 420042 | 14.6567 | * | * | 14.6567 |
| 420043 | 18.3607 | 19.4521 | 19.7570 | 19.1785 |
| 420048 | 18.0286 | 18.4367 | 18.8070 | 18.4223 |
| 420049 | 19.2340 | 17.5854 | 19.4049 | 18.7208 |
| 420051 | 18.2518 | 19.5001 | 19.1555 | 18.9941 |
| 420053 | 16.5452 | 16.9599 | 18.1657 | 17.1887 |
| 420054 | 16.5474 | 18.2702 | 20.2574 | 18.3229 |
| 420055 | 16.1823 | 19.2048 | 16.8717 | 17.3777 |
| 420056 | 15.5966 | 14.8695 | 15.1835 | 15.1636 |
| 420057 | 14.5006 | 15.9849 | 20.5266 | 17.2252 |
| 420059 | 19.1303 | 15.8160 | 17.1483 | 17.3325 |
| 420061 | 16.1310 | 16.5555 | 17.3543 | 16.6881 |
| 420062 | 18.9513 | 17.8205 | 21.7469 | 19.4924 |
| 420064 | 15.4531 | 16.7227 | 16.0794 | 16.0985 |
| 420065 | 19.0645 | 19.6902 | 19.9435 | 19.5673 |
| 420066 | 15.5001 | 15.1804 | 18.0042 | 16.2261 |
| 420067 | 18.3106 | 18.8610 | 19.7824 | 19.0239 |
| 420068 | 17.2144 | 18.5030 | 18.5481 | 18.0958 |
| 420069 | 16.3189 | 17.0788 | 18.1298 | 17.2134 |
| 420070 | 17.4486 | 18.0057 | 17.3876 | 17.6174 |
| 420071 | 18.2878 | 19.4482 | 20.3902 | 19.3836 |
| 420072 | 12.6013 | 13.8550 | 15.0158 | 13.8117 |
| 420073 | 19.2011 | 19.1604 | 19.9986 | 19.4566 |
| 420074 | 13.8038 | 16.9292 | 18.0967 | 16.2019 |
| 420075 | 16.2946 | 14.2931 | 12.8158 | 14.3372 |
| 420078 | 20.6818 | 20.7317 | 21.9082 | 21.1259 |
| 420079 | 18.7710 | 20.8639 | 21.0874 | 20.2636 |
| 420080 | 24.8321 | 22.3443 | 21.9968 | 22.9897 |
| 420081 | 20.4211 | * | * | 20.4211 |
| 420082 | 18.8848 | 20.4653 | 21.7210 | 20.3535 |
| 420083 | 23.3425 | 20.1472 | 22.6376 | 21.9902 |
| 420085 | 18.5502 | 19.9603 | 21.6791 | 20.1188 |
| 420086 | 19.3054 | 25.7179 | 20.2878 | 21.4636 |
| 420087 | 18.4016 | 19.1403 | 19.8388 | 19.1412 |
| 420088 | 17.9063 | 17.1938 | 19.9919 | 18.3046 |
| 420089 | 21.6608 | 20.2537 | 20.5360 | 20.7623 |
| 420091 | 18.5723 | 18.8687 | 20.3092 | 19.2195 |
| 420093 | 16.7734 | 17.4689 | 18.3902 | 17.5654 |
| 420094 | 32.6768 | * | * | 32.6768 |
| 430004 | 17.8435 | 18.5438 | 19.6344 | 18.6310 |
| 430005 | 15.8449 | 16.3059 | 16.4560 | 16.2068 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 430007 | 14.0586 | 14.1078 | 14.6331 | 14.2620 |
| 430008 | 16.7640 | 17.6640 | 18.1323 | 17.5240 |
| 430010 | 16.1093 | 17.1766 | 19.8191 | 17.5891 |
| 430011 | 16.4234 | 16.9848 | 17.4750 | 16.9703 |
| 430012 | 17.7809 | 17.2775 | 17.6997 | 17.5855 |
| 430013 | 17.2424 | 18.1338 | 18.4817 | 17.9391 |
| 430014 | 18.4417 | 16.8925 | 20.2387 | 18.3922 |
| 430015 | 16.4123 | 18.0019 | 18.2875 | 17.5236 |
| 430016 | 18.9715 | 19.4759 | 20.8850 | 19.7559 |
| 430018 | 14.9100 | 14.8854 | 16.2244 | 15.3323 |
| 430022 | 12.9532 | 13.4905 | 14.5118 | 13.6222 |
| 430023 | 11.6383 | 12.2331 | 16.2164 | 13.2302 |
| 430024 | 13.9942 | 15.4709 | 16.1801 | 15.3449 |
| 430026 | 10.8532 | * | * | 10.8532 |
| 430027 | 18.6367 | 19.1461 | 20.2591 | 19.2968 |
| 430028 | 16.7185 | 18.2312 | 17.1577 | 17.3522 |
| 430029 | 15.1010 | 16.6500 | 17.6986 | 16.5066 |
| 430031 | 12.4631 | 13.1258 | 12.4660 | 12.6792 |
| 430033 | 14.6423 | 15.3003 | 17.3652 | 15.6688 |
| 430034 | 12.8513 | 15.4064 | 14.2491 | 14.1740 |
| 430036 | 13.7807 | 13.6967 | 15.6258 | 14.3461 |
| 430037 | 15.9545 | 16.5368 | 18.1293 | 16.8632 |
| 430038 | 11.9419 | 13.7167 | 18.4078 | 14.2118 |
| 430040 | 13.3722 | 13.6745 | 14.4509 | 13.8057 |
| 430041 | 12.6235 | 13.1936 | 14.8816 | 13.4964 |
| 430043 | 13.4288 | 13.6908 | 14.9949 | 14.0204 |
| 430044 | 16.4488 | 18.4970 | 21.0823 | 18.5195 |
| 430047 | 15.6227 | 17.4956 | 17.9823 | 16.9377 |
| 430048 | 17.2589 | 18.3524 | 18.7602 | 18.0996 |
| 430049 | 14.4354 | 15.5381 | 15.2237 | 15.0640 |
| 430051 | 17.2139 | 17.0574 | 18.8070 | 17.6987 |
| 430054 | 13.5011 | 14.7251 | 14.8003 | 14.3524 |
| 430056 | 11.4117 | 11.7627 | 10.3697 | 11.1792 |
| 430057 | 15.1516 | 15.4390 | 17.2805 | 15.9601 |
| 430060 | 8.6409 | 9.0358 | 10.0176 | 9.2343 |
| 430062 | 10.8879 | * | * | 10.8879 |
| 430064 | 12.7394 | 14.4367 | 14.2184 | 13.7779 |
| 430065 | 12.7660 | * | * | 12.7660 |
| 430066 | 13.4380 | 14.3557 | 15.6660 | 14.4524 |
| 430073 | 14.9784 | 16.1133 | 15.3776 | 15.4839 |
| 430076 | 12.2452 | 12.7608 | 13.9883 | 12.9521 |
| 430077 | 17.7126 | 19.3012 | 19.8558 | 18.9586 |
| 430079 | 12.9780 | 13.6836 | 14.1815 | 13.5924 |
| 430087 | 10.4491 | * | * | 10.4491 |
| 430089 | 17.0065 | 17.8908 | 17.9790 | 17.6658 |
| 430090 | * | 21.5239 | 21.5974 | 21.5592 |
| 430091 | * | 19.2146 | 18.1567 | 18.5152 |
| 430092 | * | * | 21.3807 | 21.3807 |
| 430093 | * | * | 19.5013 | 19.5013 |
| 440001 | 15.3134 | 14.8713 | 15.5897 | 15.2550 |
| 440002 | 18.5411 | 19.1498 | 20.3740 | 19.3756 |
| 440003 | 17.4736 | 18.3658 | 19.3042 | 18.3967 |
| 440006 | 20.6559 | 19.6021 | 21.4055 | 20.5221 |
| 440007 | 7.7632 | 12.1230 | 14.8959 | 11.0241 |
| 440008 | 15.4701 | 17.2848 | 18.8994 | 17.1822 |
| 440009 | 15.4558 | 17.8424 | 17.4831 | 16.9676 |
| 440010 | 13.5118 | 19.9829 | 16.3283 | 16.4644 |
| 440011 | 17.1591 | 17.6948 | 18.3375 | 17.7161 |
| 440012 | 19.0606 | 15.9837 | 19.5739 | 18.2503 |
| 440014 | 14.6093 | 15.9195 | 16.1143 | 15.5705 |
| 440015 | 21.0884 | 18.2632 | 22.0659 | 20.4116 |
| 440016 | 14.9409 | 15.4097 | 16.2964 | 15.5583 |
| 440017 | 21.1258 | 19.6215 | 20.4563 | 20.3835 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 440018 | 18.2080 | 16.4115 | 17.4995 | 17.3550 |
| 440019 | 28.2242 | 20.0416 | 21.5402 | 22.7883 |
| 440020 | 15.5889 | 18.1154 | 17.8879 | 17.2181 |
| 440022 | 19.0214 | 15.8459 | * | 17.5909 |
| 440023 | 14.1410 | 15.4721 | 16.7837 | 15.4038 |
| 440024 | 18.1028 | 18.4432 | 18.4046 | 18.3183 |
| 440025 | 15.2826 | 15.8784 | 16.3140 | 15.8395 |
| 440026 | 22.9174 | 23.0550 | 23.2566 | 23.0549 |
| 440029 | 18.5183 | 19.4326 | 20.7050 | 19.5797 |
| 440030 | 15.5718 | 16.2941 | 16.9925 | 16.3267 |
| 440031 | 14.3023 | 15.5432 | 17.0211 | 15.6197 |
| 440032 | 13.5996 | 13.9775 | 13.8140 | 13.7931 |
| 440033 | 14.0409 | 14.5304 | 13.7328 | 14.1227 |
| 440034 | 17.9315 | 19.5470 | 20.0309 | 19.2030 |
| 440035 | 18.1578 | 18.9026 | 19.3034 | 18.7862 |
| 440039 | 19.3747 | 19.9439 | 21.6536 | 20.3424 |
| 440040 | 17.4965 | 16.3740 | 16.9275 | 16.9214 |
| 440041 | 13.6279 | 14.6621 | 14.9545 | 14.4249 |
| 440046 | 16.8798 | 18.1654 | 19.3229 | 18.0984 |
| 440047 | 17.0037 | 16.6646 | 17.8092 | 17.1528 |
| 440048 | 18.1449 | 19.4498 | 21.4993 | 19.5981 |
| 440049 | 16.7066 | 17.9292 | 18.7967 | 17.8439 |
| 440050 | 16.7627 | 19.1328 | 18.2511 | 18.0098 |
| 440051 | 14.9074 | 13.1901 | 16.0421 | 14.6532 |
| 440052 | 16.2693 | 16.6541 | 19.8075 | 17.4207 |
| 440053 | 17.6873 | 18.5515 | 19.6494 | 18.6583 |
| 440054 | 12.3134 | 13.8716 | 13.3967 | 13.1942 |
| 440056 | 14.2534 | 15.9821 | 16.2742 | 15.4778 |
| 440057 | 12.7190 | 12.7925 | 13.7257 | 13.0446 |
| 440058 | 18.7381 | 18.8118 | 19.1878 | 18.9185 |
| 440059 | 17.5274 | 18.5418 | 19.6018 | 18.6049 |
| 440060 | 15.8599 | 18.0586 | 19.7916 | 17.7309 |
| 440061 | 16.8442 | 14.9708 | 22.5525 | 17.8114 |
| 440063 | 18.2923 | 19.3222 | 19.8371 | 19.1661 |
| 440064 | 17.6154 | 17.7652 | 18.9809 | 18.1133 |
| 440065 | 18.6943 | 18.5825 | 18.8296 | 18.7013 |
| 440067 | 22.0655 | 16.2811 | 17.2397 | 18.2348 |
| 440068 | 17.4513 | 19.4695 | 19.3668 | 18.7087 |
| 440070 | 15.0440 | 13.7035 | 14.0437 | 14.2715 |
| 440071 | 16.2691 | 17.0186 | 19.7836 | 17.5412 |
| 440072 | 16.7675 | 17.5995 | 19.1522 | 17.8026 |
| 440073 | 18.5576 | 19.1714 | 19.5554 | 19.1079 |
| 440078 | 13.0916 | 15.0849 | 16.0188 | 14.6728 |
| 440081 | 17.9702 | 18.3587 | 19.3454 | 18.5764 |
| 440082 | 23.0805 | 22.2857 | 22.6855 | 22.6613 |
| 440083 | 35.0978 | 14.8525 | 13.7423 | 17.4998 |
| 440084 | 13.3678 | 13.4378 | 13.7731 | 13.5305 |
| 440091 | 19.7250 | 19.6114 | 20.1065 | 19.8343 |
| 440100 | 13.9487 | 13.8437 | 14.7113 | 14.1637 |
| 440102 | 13.9575 | 14.3510 | 14.5500 | 14.2949 |
| 440103 | 19.2083 | 20.3052 | 18.6990 | 19.3857 |
| 440104 | 22.3883 | 22.4403 | 22.6754 | 22.4883 |
| 440105 | 16.0338 | 16.7131 | 17.1172 | 16.6050 |
| 440109 | 14.2491 | 16.0446 | 17.7443 | 15.8919 |
| 440110 | 15.9174 | 21.1716 | 17.4816 | 17.9016 |
| 440111 | 21.0682 | 23.2425 | 23.2254 | 22.5309 |
| 440114 | 13.6095 | 14.4997 | 15.0036 | 14.3318 |
| 440115 | 12.9668 | 17.4514 | 18.5457 | 16.2205 |
| 440120 | 18.2993 | 17.2384 | 16.3115 | 17.2831 |
| 440125 | 16.1067 | 15.6588 | 19.4115 | 17.0424 |
| 440130 | 16.6750 | 17.8223 | 17.4857 | 17.3264 |
| 440131 | 14.6752 | 15.5048 | 16.1214 | 15.4186 |
| 440132 | 15.9069 | 16.6553 | 16.8871 | 16.4950 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 440133 | 21.5116 | 21.5313 | 23.0891 | 22.0182 |
| 440135 | 20.9029 | 19.2010 | 22.2005 | 20.8180 |
| 440137 | 14.6966 | 14.5632 | 15.0070 | 14.7511 |
| 440141 | 12.4774 | 13.5308 | 15.9429 | 13.7977 |
| 440142 | 13.0059 | 15.7287 | 16.8855 | 15.0859 |
| 440143 | 17.8429 | 17.7821 | 18.2061 | 17.9416 |
| 440144 | 16.6666 | 17.6415 | 18.3859 | 17.5674 |
| 440145 | 13.6577 | 17.0608 | 18.3948 | 16.1716 |
| 440147 | 22.0069 | 21.4304 | 26.1464 | 23.0399 |
| 440148 | 17.6438 | 19.2435 | 19.4598 | 18.7842 |
| 440149 | 17.1496 | 16.6923 | 18.4281 | 17.4374 |
| 440150 | 13.0775 | 20.1411 | 20.3006 | 17.2935 |
| 440151 | 15.4250 | 17.4248 | 18.3928 | 17.0781 |
| 440152 | 17.8399 | 21.0287 | 22.7664 | 20.2196 |
| 440153 | 16.0954 | 16.7769 | 16.5716 | 16.4916 |
| 440156 | 19.6117 | 29.5557 | 21.7577 | 23.1575 |
| 440157 | 11.3982 | 16.9265 | 18.4249 | 15.5384 |
| 440159 | 17.6237 | 17.7158 | 20.9371 | 18.4872 |
| 440161 | 20.7643 | 21.8013 | 22.8816 | 21.7855 |
| 440162 | 14.4121 | 14.7637 | 15.5534 | 14.8623 |
| 440166 | 18.1413 | 19.6684 | 19.2159 | 18.9985 |
| 440168 | 15.9513 | 18.6535 | 19.1509 | 17.9995 |
| 440173 | 18.4683 | 18.6402 | 19.1812 | 18.7699 |
| 440174 | 17.0080 | 17.3294 | 18.0865 | 17.4583 |
| 440175 | 17.6107 | 20.0802 | 18.5186 | 18.7356 |
| 440176 | 18.7529 | 18.0294 | 19.2208 | 18.6470 |
| 440180 | 17.3412 | 19.7773 | 20.2184 | 19.1376 |
| 440181 | 11.8471 | 16.4878 | 17.7709 | 15.0662 |
| 440182 | 20.3202 | 17.7487 | 19.7094 | 19.1341 |
| 440183 | 19.4374 | 22.7067 | 21.3465 | 21.1277 |
| 440184 | 18.0603 | 17.2037 | 16.8880 | 17.4646 |
| 440185 | 18.7286 | 19.3870 | 21.2188 | 19.7784 |
| 440186 | 18.5312 | 19.3948 | 19.7983 | 19.2465 |
| 440187 | 16.2530 | 18.9713 | 17.5872 | 17.6013 |
| 440189 | 16.1906 | * | 18.5252 | 17.4309 |
| 440192 | 19.9669 | 19.0839 | 19.1705 | 19.3968 |
| 440193 | 18.3952 | 19.0811 | 18.6999 | 18.7380 |
| 440194 | 20.3343 | 19.8682 | 22.4562 | 20.9277 |
| 440197 | 23.1080 | 21.9618 | 21.8503 | 22.2548 |
| 440200 | 16.0619 | 17.9575 | 19.8078 | 18.0280 |
| 440203 | 16.6132 | 18.3400 | 16.2861 | 17.0710 |
| 440206 | 15.5462 | 16.4429 | * | 16.0270 |
| 440209 | 14.7466 | * | * | 14.7466 |
| 440210 | 12.3292 | 11.0218 | 11.9815 | 11.7402 |
| 440211 | * | 14.8972 | * | 14.8972 |
| 440212 | * | 17.0685 | * | 17.0685 |
| 440213 | * | 19.5760 | * | 19.5760 |
| 440214 | * | * | 28.0285 | 28.0285 |
| 440215 | * | * | 22.2928 | 22.2928 |
| 450002 | 19.9195 | 21.3749 | 21.4836 | 20.9147 |
| 450004 | 15.2751 | 16.6723 | 16.7850 | 16.2360 |
| 450005 | 15.5888 | 18.3600 | 16.6396 | 16.8103 |
| 450007 | 15.7536 | 16.9681 | 19.1910 | 17.3218 |
| 450008 | 15.7458 | 17.0832 | 17.6582 | 16.7901 |
| 450010 | 16.0790 | 16.5001 | 17.6677 | 17.0234 |
| 450011 | 18.0137 | 17.1942 | 20.8102 | 18.6782 |
| 450014 | 18.2173 | 17.9495 | 17.5815 | 17.9004 |
| 450015 | 18.4400 | 18.9895 | 21.6773 | 19.6131 |
| 450016 | 17.3054 | 18.4463 | 18.3456 | 18.0337 |
| 450018 | 20.4133 | 21.4788 | 23.2293 | 21.6061 |
| 450020 | 16.9661 | 17.8415 | 19.1153 | 18.0122 |
| 450021 | 22.6910 | 23.0843 | 23.3630 | 23.0474 |
| 450023 | 16.6408 | 16.0831 | 17.6360 | 16.7896 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 450024 | 16.5604 | 17.3518 | 18.5985 | 17.4846 |
| 450025 | 16.4396 | 17.0004 | * | 16.7280 |
| 450028 | 18.4287 | 18.8764 | 19.1658 | 18.8489 |
| 450029 | 17.6909 | 17.4716 | 17.7425 | 17.6360 |
| 450031 | 20.8992 | 22.2222 | 29.6945 | 23.8280 |
| 450032 | 15.2404 | 17.3317 | 14.6530 | 15.6504 |
| 450033 | 20.8634 | 19.7437 | 21.0222 | 20.5422 |
| 450034 | 18.9068 | 19.6721 | 18.8823 | 19.1560 |
| 450035 | 16.8132 | 20.0951 | 20.3599 | 19.0234 |
| 450037 | 18.6549 | 19.5411 | 19.9140 | 19.3829 |
| 450039 | 22.0811 | 19.8143 | 19.7176 | 20.5536 |
| 450040 | 17.5179 | 16.8534 | 19.6370 | 18.0669 |
| 450042 | 17.5906 | 19.8921 | 18.8357 | 18.7392 |
| 450044 | 21.0399 | 24.7961 | 21.0909 | 22.1921 |
| 450046 | 17.0917 | 18.6536 | 17.3631 | 17.6586 |
| 450047 | 13.9022 | 13.4486 | 16.9028 | 14.6102 |
| 450050 | 13.0037 | 14.7669 | 17.7209 | 15.0293 |
| 450051 | 20.0763 | 21.0236 | 21.1008 | 20.7301 |
| 450052 | 13.5278 | 13.8881 | 15.5890 | 14.3570 |
| 450053 | 17.3139 | 17.0467 | 17.2781 | 17.2160 |
| 450054 | 21.9835 | 22.8960 | 15.9388 | 20.5562 |
| 450055 | 14.8119 | 15.0433 | 15.8526 | 15.2415 |
| 450056 | 20.0008 | 21.8436 | 21.8605 | 21.2529 |
| 450058 | 16.9832 | 18.0967 | 18.6172 | 17.9075 |
| 450059 | 14.2072 | 15.2168 | 19.8240 | 16.2886 |
| 450063 | 13.8126 | 14.3815 | 12.7211 | 13.5914 |
| 450064 | 16.4165 | 17.4093 | 19.7682 | 17.8341 |
| 450065 | 19.6087 | 21.4934 | 23.3797 | 21.3723 |
| 450068 | 22.6924 | 22.8998 | 23.3495 | 22.9910 |
| 450072 | 17.3794 | 19.0111 | 18.0307 | 18.1442 |
| 450073 | 16.6168 | 17.1002 | 16.5942 | 16.7690 |
| 450078 | 13.4875 | 11.7265 | 13.2820 | 12.8188 |
| 450079 | 19.4899 | 21.0518 | 20.6483 | 20.4464 |
| 450080 | 16.3147 | 17.4553 | 18.6212 | 17.4805 |
| 450081 | 16.1653 | 16.3448 | 17.5737 | 16.7023 |
| 450082 | 13.2952 | 16.1585 | 16.8677 | 15.5279 |
| 450083 | 20.1830 | 21.5884 | 23.3754 | 21.7298 |
| 450085 | 14.2167 | 18.3602 | 20.0085 | 17.2728 |
| 450087 | 21.4764 | 22.0273 | 21.9320 | 21.8111 |
| 450090 | 13.9101 | 15.0939 | 15.5796 | 14.8590 |
| 450092 | 15.7316 | 16.8260 | 17.9520 | 16.8805 |
| 450094 | 19.4249 | 21.3158 | 23.2863 | 21.3961 |
| 450096 | 16.6300 | 17.8813 | 18.6802 | 17.7158 |
| 450097 | 18.2740 | 19.5723 | 19.7187 | 19.2252 |
| 450098 | 15.4796 | 20.5754 | 19.0454 | 18.3431 |
| 450099 | 22.8834 | 19.2258 | 20.4181 | 20.6312 |
| 450101 | 16.9628 | 17.1330 | 17.7928 | 17.2860 |
| 450102 | 18.8465 | 18.6707 | 19.8793 | 19.1269 |
| 450104 | 15.9781 | 16.6744 | 17.0821 | 16.5911 |
| 450107 | 20.7359 | 25.1986 | 24.1094 | 23.2223 |
| 450108 | 16.1451 | 15.6324 | 15.2797 | 15.6413 |
| 450109 | 12.7654 | 13.8127 | 10.5973 | 12.1326 |
| 450110 | 21.4421 | 19.5821 | * | 20.4354 |
| 450111 | 19.2749 | 19.6350 | 21.4908 | 20.1993 |
| 450112 | 14.7610 | 16.0441 | 18.1026 | 16.3114 |
| 450113 | 18.5356 | 20.9777 | 20.8306 | 19.9901 |
| 450118 | 15.8317 | 17.9053 | * | 16.9195 |
| 450119 | 18.3166 | 20.2853 | 20.2030 | 19.6520 |
| 450121 | 18.2278 | 20.4641 | 21.9198 | 20.1751 |
| 450123 | 19.1912 | 15.7618 | 14.1755 | 16.0237 |
| 450124 | 21.0925 | 22.7480 | 22.5208 | 22.1327 |
| 450126 | 17.4512 | 21.7233 | 21.4789 | 19.9557 |
| 450128 | 15.8881 | 18.2184 | 18.1446 | 17.4552 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 450130 | 17.8722 | 20.4156 | 18.9211 | 19.0565 |
| 450131 | 17.6163 | 19.2589 | 17.4168 | 18.0711 |
| 450132 | 18.0745 | 18.1713 | 21.8089 | 19.3784 |
| 450133 | 19.9259 | 23.6366 | 26.0763 | 23.0339 |
| 450135 | 20.8065 | 21.0306 | 20.4068 | 20.7284 |
| 450137 | 23.9555 | 22.4590 | 23.4346 | 23.2829 |
| 450140 | 18.0743 | 20.2280 | 17.3370 | 18.5682 |
| 450143 | 14.4623 | 14.5270 | 15.0871 | 14.7298 |
| 450144 | 16.3037 | 18.1121 | 17.4309 | 17.3356 |
| 450145 | 14.8441 | 15.6078 | 16.1895 | 15.5356 |
| 450146 | 14.2041 | 17.8572 | 15.5030 | 15.8115 |
| 450147 | 18.0664 | 18.9363 | 19.0477 | 18.6958 |
| 450148 | 22.0269 | 18.6758 | 20.4923 | 20.3406 |
| 450149 | 24.0005 | 19.7521 | 21.7219 | 21.7182 |
| 450150 | 15.2061 | 16.3719 | 17.8612 | 16.4235 |
| 450151 | 14.8373 | 15.2906 | 16.4209 | 15.5098 |
| 450152 | 17.3780 | 18.0061 | 17.7265 | 17.7015 |
| 450153 | 19.9447 | 19.4419 | 18.6514 | 19.3436 |
| 450154 | 13.1810 | 13.8731 | 13.9119 | 13.6623 |
| 450155 | 23.7678 | 11.5841 | 13.3456 | 14.7760 |
| 450157 | 14.6623 | 15.6371 | 15.3083 | 15.2158 |
| 450160 | 8.7503 | 16.6533 | 10.6852 | 11.1452 |
| 450162 | 22.1981 | 20.9560 | 21.9218 | 21.6852 |
| 450163 | 16.9811 | 17.5403 | 17.8028 | 17.4591 |
| 450164 | 20.0368 | 16.9741 | 17.7180 | 18.0843 |
| 450165 | 15.1561 | 13.9218 | 17.3283 | 15.3582 |
| 450166 | 10.2801 | 11.4772 | 11.0541 | 10.9545 |
| 450169 | 15.8793 | 13.1990 | * | 14.1674 |
| 450170 | 14.8131 | 14.2997 | 14.3234 | 14.4821 |
| 450176 | 16.3031 | 16.9674 | 17.2576 | 16.8653 |
| 450177 | 14.7280 | 14.9241 | 15.2419 | 14.9812 |
| 450178 | 16.7550 | 17.8508 | 16.0280 | 16.8828 |
| 450181 | 14.0192 | 15.5622 | 18.6936 | 16.1716 |
| 450184 | 19.9674 | 21.1263 | 20.0821 | 20.3949 |
| 450185 | 13.0632 | 14.0714 | 11.5228 | 12.7662 |
| 450187 | 17.5702 | 16.6945 | 18.5053 | 17.5863 |
| 450188 | 13.7757 | 14.3938 | 15.1954 | 14.4624 |
| 450191 | 18.8023 | 20.1222 | 20.9512 | 19.9757 |
| 450192 | 19.3352 | 20.3795 | 21.2497 | 20.3207 |
| 450193 | 22.7325 | 23.1963 | 23.1639 | 23.0345 |
| 450194 | 19.1466 | 20.5187 | 20.7745 | 20.1569 |
| 450196 | 16.4929 | 17.1955 | 17.8993 | 17.1933 |
| 450200 | 17.3756 | 18.7387 | 19.2228 | 18.4203 |
| 450201 | 17.0548 | 16.9908 | 17.1463 | 17.0668 |
| 450203 | 18.6552 | 20.6712 | 19.3978 | 19.6025 |
| 450209 | 18.6566 | 19.0811 | 20.0140 | 19.2218 |
| 450210 | 14.2317 | 13.9758 | 16.3470 | 14.7958 |
| 450211 | 17.1433 | 17.9857 | 18.8114 | 17.9863 |
| 450213 | 18.4472 | 17.7631 | 19.0651 | 18.4304 |
| 450214 | 17.2465 | 19.0475 | 20.5070 | 18.8579 |
| 450217 | 11.6893 | 12.8457 | 12.7647 | 12.4509 |
| 450219 | 15.4207 | 15.3976 | 17.6884 | 16.1962 |
| 450221 | 16.9935 | 16.3700 | 15.2120 | 16.1091 |
| 450222 | 18.4542 | 20.3129 | 19.8967 | 19.5439 |
| 450224 | 22.8300 | 24.9046 | 20.1579 | 22.3861 |
| 450229 | 16.4116 | 16.4503 | 16.7853 | 16.5551 |
| 450231 | 17.7045 | 19.1564 | 19.1746 | 18.9853 |
| 450234 | 13.3012 | 16.1945 | 16.3003 | 15.4055 |
| 450235 | 13.4177 | 15.2332 | 16.3115 | 15.0648 |
| 450236 | 15.6774 | 16.6703 | 16.4957 | 16.3054 |
| 450237 | 17.3984 | 20.7930 | 19.0325 | 19.0438 |
| 450239 | 13.6376 | 17.1308 | 17.8401 | 16.0311 |
| 450241 | 14.8674 | 12.5675 | 16.4240 | 14.4148 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 450243 | 12.3626 | 11.9099 | 13.6416 | 12.6485 |
| 450246 | 17.9702 | 16.5478 | 16.7959 | 17.0548 |
| 450249 | 11.6279 | 12.0302 | 11.7658 | 11.8055 |
| 450250 | 14.9133 | 10.2844 | 13.6787 | 12.3052 |
| 450253 | 15.3542 | 12.2402 | 13.2177 | 13.4392 |
| 450258 | 13.2334 | 16.0466 | 16.7337 | 15.4196 |
| 450259 | 17.8488 | * | * | 17.8488 |
| 450264 | 13.8879 | 13.8929 | 14.5956 | 14.1447 |
| 450269 | 14.9334 | 12.3594 | 12.7717 | 13.2360 |
| 450270 | 12.7018 | 12.8381 | 14.4792 | 13.2703 |
| 450271 | 15.4998 | 16.6319 | 16.7831 | 16.3572 |
| 450272 | 17.9514 | 19.9331 | 18.4344 | 18.7713 |
| 450276 | 12.7053 | 13.1155 | 14.0745 | 13.3159 |
| 450278 | 13.7894 | 14.8291 | 15.2950 | 14.5985 |
| 450280 | 19.4926 | 22.2984 | 22.2936 | 21.3667 |
| 450283 | 13.8916 | 14.5664 | 15.1950 | 14.5306 |
| 450286 | 12.1212 | * | * | 12.1212 |
| 450288 | 15.9878 | 16.2502 | 18.8935 | 16.9454 |
| 450289 | 18.3478 | 20.3104 | 20.3460 | 19.6703 |
| 450292 | 19.5050 | 16.9693 | 20.5335 | 18.8754 |
| 450293 | 14.4281 | 16.0132 | 16.2721 | 15.6074 |
| 450296 | 20.6628 | 21.6000 | 22.3430 | 21.5410 |
| 450299 | 17.9678 | 21.5672 | * | 19.7778 |
| 450303 | 12.6720 | 12.4582 | 12.8996 | 12.6812 |
| 450306 | 13.3165 | 13.8216 | 14.2047 | 13.8205 |
| 450307 | 16.6779 | 16.4622 | 17.0691 | 16.7424 |
| 450309 | 16.2055 | 13.1480 | 13.3771 | 14.0877 |
| 450315 | 20.8043 | 22.8140 | 21.4684 | 21.6913 |
| 450320 | 19.6331 | 20.0946 | 20.6596 | 20.1159 |
| 450321 | 13.3932 | 13.1752 | 14.7344 | 13.7774 |
| 450322 | 12.4570 | 22.7667 | 29.1884 | 20.6852 |
| 450324 | 17.8697 | 17.7886 | 19.1692 | 18.2493 |
| 450327 | 16.0935 | 11.7511 | 13.3639 | 13.4001 |
| 450330 | 18.4163 | 18.9425 | 19.8066 | 19.0827 |
| 450334 | 12.2721 | 12.8051 | 13.8392 | 12.9835 |
| 450337 | 17.4208 | 17.1073 | 25.5708 | 18.8965 |
| 450340 | 15.8519 | 17.6914 | * | 16.7663 |
| 450341 | 19.1828 | 18.9429 | * | 19.0666 |
| 450346 | 17.1038 | 17.5367 | 18.9475 | 17.8083 |
| 450347 | 17.6908 | 17.1099 | 19.3475 | 18.0306 |
| 450348 | 12.9414 | 13.9535 | 13.3585 | 13.4272 |
| 450351 | 15.9772 | 18.4116 | 19.3159 | 17.9591 |
| 450352 | 17.8528 | 18.7480 | 20.1871 | 18.9532 |
| 450353 | 15.0020 | 17.7539 | 16.0003 | 16.2513 |
| 450355 | 14.3182 | 11.9473 | 11.8933 | 12.5966 |
| 450358 | 21.2812 | 22.3235 | 23.0206 | 22.2174 |
| 450362 | 15.3536 | 15.8847 | 18.1983 | 16.4730 |
| 450369 | 15.1854 | 15.2233 | 15.3122 | 15.2420 |
| 450370 | 15.4368 | 12.6061 | 16.1369 | 14.6391 |
| 450371 | 11.8996 | 24.6339 | 16.0236 | 16.3341 |
| 450372 | 19.8589 | 20.0924 | 22.0746 | 20.6261 |
| 450373 | 17.5998 | 17.4183 | 17.9554 | 17.6614 |
| 450374 | 12.8264 | 13.6099 | 15.1750 | 13.8338 |
| 450378 | 23.1598 | 23.5789 | 23.4599 | 23.4221 |
| 450379 | 20.2756 | 22.7632 | 22.8756 | 21.9542 |
| 450381 | 15.6215 | 16.4166 | 16.7112 | 16.2538 |
| 450388 | 17.5561 | 19.2499 | 19.7408 | 18.8527 |
| 450389 | 18.1478 | 18.1797 | 18.8448 | 18.4036 |
| 450393 | 18.7387 | 20.2784 | 22.4992 | 20.3300 |
| 450395 | 16.6754 | 18.3768 | 18.0024 | 17.6923 |
| 450399 | 16.3066 | 15.7845 | 15.3491 | 15.8113 |
| 450400 | 14.0761 | 19.5379 | 18.6668 | 17.2665 |
| 450403 | 21.3691 | 20.1989 | 22.8430 | 21.4973 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 450411 | 14.0463 | 14.4832 | 15.1121 | 14.5493 |
| 450417 | 13.8517 | 13.4983 | 15.3591 | 14.2291 |
| 450418 | 20.5847 | 21.9161 | 21.9690 | 21.5007 |
| 450419 | 21.8196 | 20.6325 | 23.2551 | 21.9114 |
| 450422 | 24.5309 | 26.4848 | 28.0257 | 26.2815 |
| 450423 | 19.4352 | 22.7132 | * | 20.9607 |
| 450424 | 17.5658 | 18.9741 | 18.7895 | 18.4852 |
| 450429 | 11.3811 | 13.8723 | * | 12.4654 |
| 450431 | 16.2696 | 19.6304 | 22.0361 | 19.0606 |
| 450438 | 16.5461 | 19.5028 | 15.4553 | 17.0919 |
| 450446 | 21.9685 | 13.0986 | 20.7592 | 18.0346 |
| 450447 | 16.6124 | 18.0376 | 18.0377 | 17.5317 |
| 450451 | 19.6424 | 18.8948 | 18.2988 | 18.9126 |
| 450457 | 19.7689 | 24.7880 | 19.6569 | 21.1382 |
| 450460 | 14.2156 | 15.1765 | 14.6523 | 14.6666 |
| 450462 | 20.1347 | 22.6212 | 22.1144 | 21.6206 |
| 450464 | 13.4714 | 13.2931 | 15.5908 | 14.0563 |
| 450465 | 15.2203 | 15.5650 | 15.4731 | 15.4326 |
| 450467 | 15.6034 | 10.6184 | 17.0004 | 13.7745 |
| 450469 | 22.1012 | 19.6269 | 22.1930 | 21.2351 |
| 450473 | 14.1895 | 19.9761 | 19.7148 | 17.9827 |
| 450475 | 16.2489 | 16.3404 | 16.9269 | 16.5089 |
| 450484 | 19.5869 | 16.8131 | 18.9825 | 18.4097 |
| 450488 | 18.6813 | 19.3457 | 19.2173 | 19.0899 |
| 450489 | 14.5747 | 9.9326 | 16.3584 | 13.1235 |
| 450497 | 11.9242 | 15.0886 | 16.2997 | 14.3957 |
| 450498 | 12.0249 | 13.8551 | 14.4713 | 13.5076 |
| 450508 | 19.8722 | 18.8069 | 19.0991 | 19.2442 |
| 450514 | 22.2791 | 21.3243 | 20.0144 | 21.2387 |
| 450517 | 12.8702 | 27.8815 | 14.3191 | 16.6822 |
| 450518 | 19.0112 | 19.8116 | 21.4873 | 20.0415 |
| 450523 | 20.2589 | 20.0792 | 21.0393 | 20.4436 |
| 450530 | 22.9101 | 22.8623 | 21.1634 | 22.2676 |
| 450534 | 24.0835 | 19.9376 | 20.1520 | 21.2600 |
| 450535 | 21.2659 | 19.6645 | 21.0513 | 20.6461 |
| 450537 | 21.7432 | 20.8438 | 20.1161 | 20.8690 |
| 450538 | 19.6864 | * | * | 19.6864 |
| 450539 | 14.2536 | 16.4921 | 18.7559 | 16.5056 |
| 450544 | 19.3848 | 23.9283 | 23.6652 | 21.9211 |
| 450545 | 16.9674 | 19.5558 | 20.2823 | 18.9428 |
| 450547 | 13.8074 | 14.8248 | 18.1524 | 15.7208 |
| 450551 | 13.9069 | 16.9439 | 16.6237 | 15.8128 |
| 450558 | 20.0164 | 22.2574 | 20.7404 | 21.0120 |
| 450559 | 13.4572 | * | * | 13.4572 |
| 450561 | 16.8162 | * | * | 16.8162 |
| 450563 | 30.3744 | 19.9218 | 22.0708 | 22.9095 |
| 450565 | 16.4545 | 16.2652 | 17.3803 | 16.7063 |
| 450570 | 17.7135 | 18.9532 | 19.0336 | 18.5591 |
| 450571 | 16.9705 | 17.5598 | 18.2784 | 17.6264 |
| 450573 | 15.6698 | 12.2502 | 17.3518 | 14.9746 |
| 450574 | 14.2411 | 14.5965 | 14.6128 | 14.4845 |
| 450575 | 19.0613 | 19.3925 | 22.5621 | 20.3955 |
| 450578 | 16.8731 | 15.4783 | 18.0925 | 16.7620 |
| 450580 | 15.3581 | 15.8321 | 16.7374 | 16.0231 |
| 450583 | 15.5040 | 15.6580 | 14.4411 | 15.1895 |
| 450584 | 13.3747 | 14.2321 | 14.6735 | 14.1004 |
| 450586 | 12.8439 | 14.3773 | 13.8248 | 13.7154 |
| 450587 | 17.1124 | 17.0230 | 18.0219 | 17.3661 |
| 450591 | 17.9151 | 17.8981 | 17.7795 | 17.8608 |
| 450596 | 14.8232 | 22.5420 | 21.6729 | 19.1117 |
| 450597 | 16.1797 | 17.0776 | 17.6179 | 16.9806 |
| 450603 | 12.7682 | 11.6442 | 23.5572 | 15.3844 |
| 450604 | 15.4790 | 16.4535 | 17.6582 | 16.5641 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 450605 | 20.1541 | 21.1400 | 19.4580 | 20.2362 |
| 450609 | 10.7323 | 15.9753 | 17.0986 | 14.6244 |
| 450610 | 16.7464 | 18.9924 | 21.5191 | 19.2633 |
| 450614 | 13.8304 | 17.9853 | 16.5754 | 15.9153 |
| 450615 | 14.7457 | 14.8562 | 15.2956 | 14.9778 |
| 450617 | 19.5381 | 20.3387 | 20.8919 | 20.3006 |
| 450620 | 13.7063 | 15.8380 | 16.0987 | 15.2421 |
| 450623 | 21.8275 | 22.1950 | 23.1270 | 22.3514 |
| 450626 | 19.7896 | 18.1673 | 18.4349 | 18.7617 |
| 450628 | 16.8345 | 20.5611 | 18.6093 | 18.6475 |
| 450630 | 19.1904 | 21.6876 | 20.9605 | 20.5728 |
| 450631 | 17.5555 | 20.0417 | 21.6736 | 19.4992 |
| 450632 | 12.7295 | 11.7587 | 13.9147 | 12.7814 |
| 450633 | 20.7209 | 19.5183 | 19.4949 | 19.8926 |
| 450634 | 20.2932 | 23.5333 | 22.9877 | 22.3295 |
| 450638 | 19.6968 | 23.1437 | 22.1704 | 21.6228 |
| 450639 | 20.3050 | 23.1936 | 21.6421 | 21.6608 |
| 450641 | 13.5049 | 16.5125 | 15.7578 | 15.1652 |
| 450643 | 17.4268 | 18.7054 | 16.8152 | 17.6481 |
| 450644 | 20.7904 | 23.6587 | 22.7721 | 22.2903 |
| 450646 | 19.9866 | 19.8274 | 19.1433 | 19.6406 |
| 450647 | 22.4196 | 24.7981 | 24.2763 | 23.8588 |
| 450648 | 14.7541 | 14.8488 | 15.0305 | 14.8793 |
| 450649 | 15.8156 | 16.4496 | 16.6577 | 16.3245 |
| 450651 | 20.7304 | 22.7664 | 22.7112 | 22.1063 |
| 450652 | 16.6461 | 13.4389 | 17.2445 | 15.4912 |
| 450653 | 19.2847 | 18.1834 | 19.2349 | 18.8580 |
| 450654 | 13.8833 | 14.5258 | 14.5423 | 14.3223 |
| 450656 | 18.7328 | 17.6723 | 18.2606 | 18.1968 |
| 450658 | 15.1477 | 16.2657 | 17.2630 | 16.2787 |
| 450659 | 20.5609 | 22.2550 | 23.0108 | 21.9106 |
| 450661 | 20.2196 | 19.7160 | 18.9071 | 19.5857 |
| 450662 | 18.6797 | 18.2284 | 19.3152 | 18.7697 |
| 450665 | 15.4395 | 15.2015 | 16.1319 | 15.5906 |
| 450666 | 19.3456 | 20.3248 | 20.2549 | 19.9584 |
| 450668 | 18.7218 | 20.6965 | 21.0972 | 20.1590 |
| 450669 | 22.2832 | 21.7632 | 21.6746 | 21.8862 |
| 450670 | 18.2030 | 16.8893 | 20.2632 | 18.5133 |
| 450672 | 21.2079 | 21.8559 | 21.4927 | 21.5115 |
| 450673 | 13.8444 | 13.9620 | 13.7005 | 13.8283 |
| 450674 | 20.6151 | 22.2796 | 22.2426 | 21.7353 |
| 450675 | 23.2587 | 22.4961 | 21.4479 | 22.2858 |
| 450677 | 18.7905 | 22.6839 | 20.6556 | 20.7200 |
| 450678 | 20.7453 | 23.2617 | 24.1301 | 22.6596 |
| 450683 | 21.1748 | 20.9143 | 22.8699 | 21.6172 |
| 450684 | 22.8552 | 19.7005 | 21.9962 | 21.3850 |
| 450686 | 15.0122 | 16.5661 | 16.4632 | 15.9861 |
| 450688 | 20.8988 | 19.6250 | 20.1831 | 20.2348 |
| 450690 | 22.4118 | 21.6578 | 22.4707 | 22.1725 |
| 450694 | 18.4917 | 17.4758 | 18.1872 | 18.0283 |
| 450696 | 17.5701 | 24.9636 | * | 21.1885 |
| 450697 | 15.9259 | 18.8405 | 19.4949 | 18.0008 |
| 450698 | 14.3983 | 14.6680 | 15.4750 | 14.8475 |
| 450700 | 15.1153 | 14.6421 | 15.9050 | 15.2506 |
| 450702 | 21.0157 | 20.8223 | 21.3739 | 21.0706 |
| 450703 | 18.8029 | * | * | 18.8029 |
| 450704 | 21.6236 | 20.9821 | 20.7987 | 21.1724 |
| 450705 | 22.3175 | 30.0116 | 22.1809 | 24.2035 |
| 450706 | 21.3777 | 21.2072 | 22.0884 | 21.5769 |
| 450709 | 19.7741 | 20.8889 | 22.1490 | 21.0078 |
| 450711 | 18.2350 | 19.8126 | 19.8581 | 19.3268 |
| 450712 | 16.8942 | 13.6240 | 15.9298 | 15.4007 |
| 450713 | 23.6009 | 20.8065 | 22.6986 | 22.2836 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 450715 | 19.7719 | 22.0413 | 22.5988 | 21.5504 |
| 450716 | 19.9871 | 20.5544 | 20.9074 | 20.4812 |
| 450717 | 19.4546 | 20.7192 | 20.6551 | 20.2618 |
| 450718 | 19.0679 | 19.6886 | 22.1765 | 20.3069 |
| 450723 | 19.7044 | 19.7563 | 20.8213 | 20.1083 |
| 450724 | 20.0667 | 20.3235 | 20.3706 | 20.2569 |
| 450725 | 19.5572 | * | * | 19.5572 |
| 450727 | 17.7508 | 13.5458 | 17.9172 | 16.1802 |
| 450728 | 12.9277 | 17.5284 | 19.8879 | 16.6493 |
| 450730 | 20.9129 | 22.0819 | 23.0054 | 22.0459 |
| 450733 | 20.3718 | 20.7693 | 20.2199 | 20.4645 |
| 450735 | 8.0014 | 13.8767 | * | 10.0108 |
| 450742 | 20.7775 | 22.7655 | 21.8392 | 21.8145 |
| 450743 | 15.9493 | 18.8937 | 19.6015 | 18.1561 |
| 450746 | 20.7534 | 12.7904 | 30.2657 | 19.9075 |
| 450747 | 17.3842 | 19.2585 | 20.3914 | 18.9599 |
| 450749 | 12.9542 | 16.2130 | 19.1678 | 16.2656 |
| 450750 | 14.7207 | 14.6914 | 13.8098 | 14.4310 |
| 450751 | 22.2491 | 21.2198 | 19.9995 | 21.3756 |
| 450754 | 14.8896 | 16.0860 | 16.7145 | 15.9455 |
| 450755 | 14.7070 | 17.9904 | 19.8743 | 17.5601 |
| 450757 | 13.9636 | 13.8675 | 14.9434 | 14.2422 |
| 450758 | 18.6513 | 21.8669 | 19.0221 | 19.8347 |
| 450760 | 18.0690 | 17.4852 | 19.2225 | 18.2582 |
| 450761 | 11.1444 | 13.6152 | 15.7681 | 13.3382 |
| 450763 | 17.5603 | 18.2123 | 18.6092 | 18.1083 |
| 450766 | 21.8103 | 22.4348 | 23.3879 | 22.5926 |
| 450769 | 13.6183 | 14.5858 | 18.4163 | 15.2554 |
| 450770 | 16.8250 | 16.5458 | 19.0183 | 17.4436 |
| 450771 | 21.5814 | 22.4542 | 21.8268 | 21.9636 |
| 450774 | 16.5198 | 17.9964 | 16.2948 | 16.9482 |
| 450775 | 19.9651 | 19.8897 | 21.3504 | 20.4169 |
| 450776 | 10.1953 | 15.7750 | 14.1720 | 13.1591 |
| 450777 | 19.5923 | 21.0682 | 19.0380 | 19.9747 |
| 450779 | 22.9697 | 21.4546 | 21.6642 | 21.8768 |
| 450780 | 15.2800 | 19.1498 | 19.0914 | 17.6291 |
| 450785 | 18.5475 | 18.4976 | * | 18.5211 |
| 450788 | 20.9806 | 19.1463 | 19.6469 | 19.7295 |
| 450794 | 18.3981 | 18.2229 | * | 18.3485 |
| 450795 | 14.1682 | 16.6494 | 22.5753 | 17.9737 |
| 450796 | 17.4472 | 16.5362 | 19.2059 | 17.6627 |
| 450797 | 18.5901 | 15.9188 | 16.4923 | 16.8594 |
| 450798 | 9.2165 | 9.4634 | * | 9.3327 |
| 450801 | 16.6095 | 17.5669 | 17.9548 | 17.3668 |
| 450802 | 18.9018 | 19.9168 | 17.1435 | 18.5477 |
| 450803 | 16.2047 | 18.3767 | 21.6653 | 19.3492 |
| 450804 | 20.2223 | 19.4846 | 19.0893 | 19.5891 |
| 450807 | 13.2256 | 11.3192 | 13.4306 | 12.5547 |
| 450808 | 45.4728 | 16.9915 | 17.4917 | 21.1577 |
| 450809 | 19.0266 | 20.0202 | 19.7899 | 19.6416 |
| 450811 | 18.3847 | 19.0961 | 19.9168 | 19.1389 |
| 450812 | 20.7383 | * | * | 20.7383 |
| 450813 | * | 15.9166 | 14.5392 | 15.1549 |
| 450815 | * | * | 21.2741 | 21.2741 |
| 450819 | * | * | 16.5521 | 16.5521 |
| 450820 | * | * | 26.8348 | 26.8348 |
| 450822 | * | * | 22.8556 | 22.8556 |
| 460001 | 20.6336 | 21.7996 | 22.2735 | 21.5846 |
| 460003 | 20.5958 | 20.0452 | 22.6289 | 21.0329 |
| 460004 | 20.8196 | 21.3744 | 21.7234 | 21.3231 |
| 460005 | 17.5818 | 19.7069 | 22.5252 | 19.8732 |
| 460006 | 19.6485 | 20.6252 | 21.0700 | 20.4918 |
| 460007 | 20.5677 | 20.8026 | 21.1922 | 20.8840 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 460008 | 21.0338 | 18.8661 | 19.1153 | 19.6864 |
| 460009 | 21.1084 | 21.9016 | 22.5295 | 21.8515 |
| 460010 | 21.2473 | 21.9830 | 22.4948 | 21.9354 |
| 460011 | 16.7114 | 18.8660 | 19.7674 | 18.3702 |
| 460013 | 20.3331 | 20.7326 | 20.1936 | 20.4306 |
| 460014 | 19.5465 | 18.3865 | 18.5370 | 18.7488 |
| 460015 | 20.0987 | 20.6593 | 21.0470 | 20.6197 |
| 460016 | 18.0791 | 18.2408 | 21.9105 | 19.2998 |
| 460017 | 26.0310 | 17.7103 | 18.9929 | 19.9984 |
| 460018 | 16.8566 | 17.6235 | 17.0063 | 17.1606 |
| 460019 | 17.3683 | 16.2671 | 17.8690 | 17.1417 |
| 460020 | 17.0271 | 17.3467 | 17.2663 | 17.2239 |
| 460021 | 20.2613 | 21.0470 | 21.5174 | 20.9913 |
| 460022 | 18.2100 | 20.1534 | 21.3614 | 19.7210 |
| 460023 | 21.3321 | 22.3535 | 22.9265 | 22.2381 |
| 460024 | 13.0279 | * | * | 13.0279 |
| 460025 | 12.5083 | 19.4247 | 17.3494 | 16.5301 |
| 460026 | 17.3431 | 19.9241 | 20.2576 | 19.0202 |
| 460027 | 20.8331 | 21.8868 | 22.2955 | 21.6637 |
| 460029 | 17.2501 | 20.5154 | 20.8366 | 19.2190 |
| 460030 | 17.2196 | 17.6071 | 17.1383 | 17.3160 |
| 460032 | 19.5474 | 21.1006 | 21.4832 | 20.7171 |
| 460033 | 15.7233 | 19.5372 | 19.2664 | 18.1972 |
| 460035 | 14.2802 | 16.0021 | 16.1685 | 15.4874 |
| 460036 | 22.3788 | 23.5893 | 23.4573 | 23.1384 |
| 460037 | 18.7665 | 18.6850 | 17.7399 | 18.3920 |
| 460039 | 24.4781 | 24.9134 | 24.4808 | 24.6217 |
| 460041 | 21.6926 | 21.0623 | 20.2035 | 20.9715 |
| 460042 | 17.8455 | 18.8814 | 19.5662 | 18.7473 |
| 460043 | 23.8970 | 24.4779 | 23.2819 | 23.8380 |
| 460044 | 20.6897 | 21.4696 | 21.8485 | 21.3516 |
| 460046 | 17.1085 | 18.2224 | * | 17.6742 |
| 460047 | 21.3843 | 23.0433 | 22.7524 | 22.4777 |
| 460049 | 18.8206 | 19.6483 | 20.8283 | 19.8892 |
| 460050 | 26.2485 | * | * | 26.2485 |
| 460051 | 20.9797 | 19.4761 | 22.1758 | 20.8643 |
| 460052 | * | * | 19.8961 | 19.8961 |
| 470001 | 19.6108 | 20.2299 | 21.3817 | 20.4021 |
| 470003 | 22.5949 | 23.6949 | 22.0563 | 22.7712 |
| 470004 | 18.0952 | 16.8842 | 18.1879 | 17.7051 |
| 470005 | 21.5151 | 21.9191 | 23.1808 | 22.1962 |
| 470006 | 18.3898 | 17.8699 | 20.2829 | 18.8123 |
| 470008 | 19.4136 | 19.6069 | 20.1969 | 19.7378 |
| 470010 | 19.4652 | 20.2961 | 21.0616 | 20.2790 |
| 470011 | 21.2014 | 21.7675 | 22.2415 | 21.7386 |
| 470012 | 18.5162 | 18.5339 | 18.9444 | 18.6579 |
| 470015 | 19.2552 | 19.5366 | 20.2125 | 19.6399 |
| 470018 | 20.4161 | 21.5426 | 21.2406 | 21.0610 |
| 470020 | 18.9884 | 20.6643 | 21.5688 | 20.4558 |
| 470023 | 20.6391 | 20.4511 | 21.7139 | 20.9439 |
| 470024 | 20.4087 | 20.8510 | 21.9807 | 21.0777 |
| 490001 | 24.7604 | 21.9755 | 20.0570 | 22.0422 |
| 490002 | 12.9871 | 15.2287 | 15.7365 | 14.6222 |
| 490003 | 18.0034 | 19.1040 | 20.3237 | 19.1299 |
| 490004 | 18.7731 | 19.2126 | 19.7074 | 19.2382 |
| 490005 | 16.9087 | 20.5517 | 21.3318 | 19.6257 |
| 490006 | 15.2276 | 15.9537 | 12.3253 | 14.5928 |
| 490007 | 18.4330 | 18.7740 | 19.8938 | 19.0586 |
| 490009 | 22.9513 | 23.9344 | 23.7659 | 23.5499 |
| 490010 | 18.5780 | 21.7424 | * | 19.9381 |
| 490011 | 18.7508 | 18.6071 | 19.8042 | 19.0282 |
| 490012 | 13.7788 | 15.9973 | 15.2965 | 15.0022 |
| 490013 | 16.9324 | 17.3318 | 18.2396 | 17.5085 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 490014 | 24.5557 | 25.8315 | 23.5266 | 24.6242 |
| 490015 | 19.3608 | 19.6363 | 20.0667 | 19.6821 |
| 490017 | 17.3152 | 18.4361 | 19.3854 | 18.3964 |
| 490018 | 17.9433 | 18.3435 | 18.5508 | 18.2858 |
| 490019 | 17.5309 | 19.6178 | 21.0124 | 19.4215 |
| 490020 | 17.6655 | 18.5691 | 19.3424 | 18.5533 |
| 490021 | 19.4490 | 19.3945 | 20.0496 | 19.6794 |
| 490022 | 20.7223 | 21.2183 | 22.3380 | 21.4351 |
| 490023 | 18.9587 | 20.6694 | 21.5683 | 20.4224 |
| 490024 | 16.8904 | 17.7221 | 18.4314 | 17.8400 |
| 490027 | 14.4234 | 16.2761 | 16.7556 | 15.8360 |
| 490030 | 10.5029 | 9.1789 | 8.6446 | 9.5559 |
| 490031 | 15.8213 | 14.9539 | 16.0003 | 15.5875 |
| 490032 | 21.5592 | 22.4262 | 21.4037 | 21.7854 |
| 490033 | 18.3265 | 21.1723 | 19.2908 | 19.5511 |
| 490037 | 15.9704 | 16.3759 | 17.0113 | 16.4399 |
| 490038 | 15.7099 | 21.0218 | 17.6324 | 17.9048 |
| 490040 | 22.5237 | 22.7061 | 24.1266 | 23.1321 |
| 490041 | 16.5542 | 18.3589 | 18.7987 | 17.8901 |
| 490042 | 15.2717 | 16.4666 | 17.0972 | 16.2668 |
| 490043 | 20.6775 | 22.1574 | 22.1068 | 21.7221 |
| 490044 | 17.6282 | 18.3137 | 19.7842 | 18.6148 |
| 490045 | 19.6325 | 20.5468 | 20.5558 | 20.2593 |
| 490046 | 18.6112 | 18.4825 | 19.9102 | 19.0232 |
| 490047 | 17.1631 | 25.0438 | 18.7614 | 19.8637 |
| 490048 | 17.8907 | 18.4361 | 19.5417 | 18.6005 |
| 490050 | 22.7129 | 23.0729 | 23.3668 | 23.0530 |
| 490052 | 16.9363 | 16.8600 | 16.4787 | 16.7609 |
| 490053 | 15.6883 | 15.6996 | 16.8410 | 16.1062 |
| 490054 | 15.5516 | 15.4734 | 19.5780 | 16.7024 |
| 490057 | 19.0668 | 19.9210 | 20.3160 | 19.7770 |
| 490059 | 20.3744 | 20.8662 | 21.4801 | 20.8999 |
| 490060 | 19.2006 | 17.6308 | 18.5917 | 18.4363 |
| 490063 | 28.2527 | 28.6536 | 26.1930 | 27.6341 |
| 490066 | 16.5024 | 20.6972 | 19.8352 | 18.9146 |
| 490067 | 17.1922 | 17.0195 | 17.8487 | 17.3549 |
| 490069 | 15.6986 | 17.3297 | 20.7582 | 17.8379 |
| 490071 | 19.4701 | 21.8879 | 23.3511 | 21.4480 |
| 490073 | 26.1420 | 20.7960 | 26.0957 | 24.1488 |
| 490074 | 19.3417 | * | * | 19.3417 |
| 490075 | 19.1906 | 18.6983 | 19.2156 | 19.0267 |
| 490077 | 19.7866 | 21.3670 | 22.6504 | 21.2469 |
| 490079 | 16.4379 | 17.0815 | 17.7016 | 17.0749 |
| 490083 | 16.6406 | * | * | 16.6406 |
| 490084 | 16.3846 | 16.7834 | 18.0555 | 17.0646 |
| 490085 | 16.3979 | 17.4584 | 17.6158 | 17.1539 |
| 490088 | 15.5982 | 16.4362 | 17.9141 | 16.6068 |
| 490089 | 15.8618 | 17.7692 | 18.2290 | 17.2642 |
| 490090 | 16.2785 | 17.0199 | 17.5799 | 16.9734 |
| 490091 | 19.9949 | 20.8734 | 25.0272 | 21.8088 |
| 490092 | 15.6893 | 16.9533 | 16.4360 | 16.3528 |
| 490093 | 16.4767 | 17.3711 | 17.8275 | 17.2502 |
| 490094 | 16.7880 | 18.9204 | 22.3033 | 19.3562 |
| 490095 | 18.2495 | * | * | 18.2495 |
| 490097 | 15.8586 | 15.5780 | 16.9518 | 16.0789 |
| 490098 | 14.6971 | 15.1403 | 16.0488 | 15.2544 |
| 490099 | 16.8667 | 17.9665 | 18.3985 | 17.7293 |
| 490100 | 17.2189 | 22.5010 | * | 19.8823 |
| 490101 | 25.0907 | 24.7616 | 23.5553 | 24.4275 |
| 490104 | 28.4910 | 25.6889 | 40.2529 | 29.2590 |
| 490105 | 18.2461 | 18.5765 | 21.4428 | 19.2491 |
| 490106 | 16.9117 | 17.6596 | 26.3821 | 18.9838 |
| 490107 | 22.4054 | 23.5240 | 22.9283 | 22.9660 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 490108 | 19.7478 | 20.2112 | 24.1232 | 21.0559 |
| 490109 | 21.1589 | 23.6620 | 25.9475 | 23.4402 |
| 490110 | 15.8408 | 16.5131 | 18.1561 | 16.8181 |
| 490111 | 17.3453 | 17.1768 | 17.8510 | 17.4580 |
| 490112 | 20.5239 | 21.4532 | 22.1162 | 21.3613 |
| 490113 | 23.0840 | 23.2235 | 23.9043 | 23.4071 |
| 490114 | 16.9083 | 17.3047 | 18.0359 | 17.4375 |
| 490115 | 17.1023 | 16.5203 | 16.8537 | 16.8239 |
| 490116 | 16.4436 | 16.6170 | 17.2040 | 16.7676 |
| 490117 | 13.8429 | 14.0104 | 14.7944 | 14.2244 |
| 490118 | 20.8707 | 21.4674 | 23.2022 | 21.8304 |
| 490119 | 17.8686 | 17.9147 | 18.6046 | 18.1353 |
| 490120 | 19.9810 | 19.3707 | 20.5777 | 19.9742 |
| 490122 | 23.9695 | 23.8801 | 23.8198 | 23.8925 |
| 490123 | 16.8505 | 17.7461 | 19.3056 | 18.0001 |
| 490124 | 19.3616 | 22.0884 | 21.3818 | 20.8857 |
| 490126 | 18.2276 | 18.6844 | 20.4294 | 19.0254 |
| 490127 | 14.4815 | 16.0516 | 16.5993 | 15.6547 |
| 490129 | 27.4701 | 22.5885 | 28.6868 | 25.1130 |
| 490130 | 16.2779 | 16.4322 | 17.6943 | 16.7915 |
| 490132 | 17.0204 | 18.6570 | 18.4671 | 18.0649 |
| 500001 | 21.3476 | 22.1896 | 24.4829 | 22.6367 |
| 500002 | 21.0375 | 21.6332 | 19.8476 | 20.7811 |
| 500003 | 24.3055 | 24.2814 | 24.4333 | 24.3392 |
| 500005 | 23.4808 | 22.3955 | 24.3870 | 23.3703 |
| 500007 | 22.4269 | 26.0599 | 21.9911 | 23.4148 |
| 500008 | 24.1930 | 25.3064 | 26.1737 | 25.2130 |
| 500011 | 25.1836 | 24.0162 | 24.6554 | 24.5938 |
| 500012 | 22.2815 | 20.7032 | 24.2799 | 22.3541 |
| 500014 | 23.9276 | 24.3419 | 24.0990 | 24.1249 |
| 500015 | 23.2435 | 23.9297 | 24.9923 | 24.0554 |
| 500016 | 23.9034 | 24.3938 | 24.9439 | 24.4287 |
| 500019 | 22.3668 | 22.4213 | 23.2054 | 22.6470 |
| 500021 | 24.4622 | 25.9198 | 27.6490 | 25.9957 |
| 500023 | 27.1892 | 26.6535 | 27.1025 | 26.9568 |
| 500024 | 24.0453 | 23.7472 | 26.6452 | 24.7736 |
| 500025 | 23.9557 | 26.4810 | 24.4825 | 24.9695 |
| 500026 | 23.3491 | 23.8005 | 26.9884 | 24.7238 |
| 500027 | 25.0529 | 22.2158 | 25.1125 | 24.0804 |
| 500028 | 18.8588 | 19.2675 | 18.9556 | 19.0337 |
| 500029 | 16.8083 | 17.9237 | 18.5042 | 17.7373 |
| 500030 | 24.1321 | 24.9039 | 26.3828 | 25.1714 |
| 500031 | 23.3659 | 29.2707 | 23.6099 | 25.1784 |
| 500033 | 21.3906 | 22.3527 | 22.5462 | 22.1428 |
| 500036 | 21.8950 | 22.1096 | 23.6333 | 22.5254 |
| 500037 | 19.6803 | 20.7139 | 21.4059 | 20.6062 |
| 500039 | 23.3211 | 23.8918 | 24.0007 | 23.7403 |
| 500041 | 24.8556 | 23.9608 | 25.4376 | 24.7549 |
| 500042 | 22.1286 | 22.9125 | * | 22.5386 |
| 500043 | 20.2509 | 20.9459 | 22.0466 | 21.0230 |
| 500044 | 23.1128 | 23.3364 | 24.2212 | 23.5535 |
| 500045 | 22.0982 | 20.8881 | 24.0526 | 22.2906 |
| 500048 | 19.3029 | 22.1906 | 20.3207 | 20.5960 |
| 500049 | 22.9534 | 24.0489 | 24.5997 | 23.8657 |
| 500050 | 20.9445 | 22.0065 | 22.6563 | 21.9092 |
| 500051 | 24.4769 | 24.8203 | 25.9447 | 25.1087 |
| 500053 | 22.0515 | 23.9397 | 22.8399 | 22.9429 |
| 500054 | 22.9024 | 22.8829 | 23.8089 | 23.1889 |
| 500055 | 22.8769 | 23.7446 | 23.8622 | 23.5097 |
| 500057 | 18.0424 | 18.2737 | 19.0479 | 18.4516 |
| 500058 | 23.3984 | 24.7882 | 24.1106 | 24.0962 |
| 500059 | 22.5412 | 23.3506 | 26.6270 | 24.1016 |
| 500060 | 23.5360 | 25.0233 | 28.3655 | 25.4628 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 500061 | 20.3957 | 21.7013 | 20.8624 | 20.9851 |
| 500062 | 19.4607 | 18.6329 | 19.0557 | 19.0333 |
| 500064 | 24.5283 | 25.5748 | 26.7000 | 25.6273 |
| 500065 | 21.4254 | 21.9308 | 23.5671 | 22.3106 |
| 500068 | 18.6960 | 19.6574 | 19.2638 | 19.2003 |
| 500069 | 20.6262 | 21.3592 | 21.4542 | 21.1522 |
| 500071 | 19.3810 | 19.1906 | 19.1428 | 19.2439 |
| 500072 | 24.4599 | 25.3928 | 25.2001 | 25.0228 |
| 500073 | 21.4303 | 21.2469 | 21.7698 | 21.4835 |
| 500074 | 18.6506 | 18.9679 | 19.5981 | 19.0849 |
| 500077 | 23.2056 | 22.8536 | 23.9410 | 23.3357 |
| 500079 | 22.9809 | 24.2036 | 23.1041 | 23.4248 |
| 500080 | 13.8000 | 15.6630 | 18.3883 | 15.5897 |
| 500084 | 22.2169 | 23.4032 | 24.4044 | 23.3798 |
| 500085 | 28.6121 | 21.4403 | 20.4517 | 22.7948 |
| 500086 | 22.3132 | 23.3288 | 22.8829 | 22.8469 |
| 500088 | 23.6988 | 23.2701 | 25.2478 | 24.0737 |
| 500089 | 17.9399 | 18.7080 | 19.7166 | 18.7736 |
| 500090 | 16.3297 | 16.1576 | 20.4429 | 17.2562 |
| 500092 | 17.2881 | 16.7913 | 19.2028 | 17.7527 |
| 500094 | 18.1080 | 18.5835 | 15.7866 | 17.6577 |
| 500096 | 20.9580 | 21.0151 | 23.3564 | 21.7716 |
| 500097 | 20.8010 | 19.7706 | 20.8774 | 20.4568 |
| 500098 | 12.9935 | 16.3511 | 15.2040 | 14.9340 |
| 500101 | 19.4498 | 19.7337 | 15.8000 | 18.3994 |
| 500102 | 20.3321 | 20.9389 | 21.8963 | 21.0615 |
| 500104 | 22.5849 | 22.8154 | 24.9389 | 23.3843 |
| 500106 | 18.7087 | 18.6041 | 19.1465 | 18.7914 |
| 500107 | 17.2987 | 18.1201 | 17.9489 | 17.8064 |
| 500108 | 27.2126 | 26.2939 | 28.6229 | 27.3944 |
| 500110 | 21.4053 | 21.4553 | 22.9775 | 21.9505 |
| 500118 | 22.9245 | 23.8397 | 24.8034 | 23.8697 |
| 500119 | 21.5704 | 22.4373 | 22.1192 | 22.0436 |
| 500122 | 21.9135 | 22.4268 | 23.5264 | 22.6230 |
| 500123 | 19.5855 | 20.3181 | 19.6646 | 19.8819 |
| 500124 | 24.1473 | 23.2836 | 23.7742 | 23.7287 |
| 500125 | 16.6272 | 15.1112 | 14.7910 | 15.5165 |
| 500129 | 23.5952 | 26.1575 | 25.4685 | 25.1115 |
| 500132 | 19.3567 | 15.6717 | 23.1822 | 19.3937 |
| 500134 | 20.9570 | 17.7457 | 17.2430 | 18.5700 |
| 500139 | 20.8816 | 22.2297 | 22.3053 | 21.8379 |
| 500141 | 22.9358 | 23.8838 | 29.9695 | 25.5485 |
| 500143 | 17.6031 | 18.0343 | 18.2570 | 17.9797 |
| 500146 | 17.8558 | 21.6003 | * | 19.6218 |
| 510001 | 17.8282 | 19.1492 | 20.0429 | 18.9855 |
| 510002 | 17.3409 | 20.1527 | 17.6392 | 18.3009 |
| 510005 | 14.4330 | 14.2503 | 13.8621 | 14.1872 |
| 510006 | 17.8821 | 18.7313 | 19.9609 | 18.8717 |
| 510007 | 20.2483 | 21.2729 | 21.6761 | 21.0848 |
| 510008 | 17.3653 | 18.3296 | 19.0513 | 18.2388 |
| 510012 | 16.5037 | 15.8390 | 15.6089 | 15.9887 |
| 510013 | 16.6194 | 17.8527 | 19.5798 | 17.9628 |
| 510015 | 14.7904 | 14.9039 | 16.7311 | 15.5193 |
| 510016 | 12.0276 | * | * | 12.0276 |
| 510018 | 16.4757 | 18.5269 | 18.5358 | 17.8403 |
| 510020 | 12.6472 | 13.1837 | 14.1211 | 13.3435 |
| 510022 | 19.8375 | 20.1763 | 21.5770 | 20.5146 |
| 510023 | 15.9417 | 16.0129 | 16.7777 | 16.2444 |
| 510024 | 18.7982 | 19.0941 | 18.7461 | 18.8794 |
| 510026 | 13.4586 | 13.6888 | 13.7952 | 13.6491 |
| 510027 | 17.5759 | 17.2900 | 18.5945 | 17.8135 |
| 510028 | 20.7306 | 20.0628 | 19.9208 | 20.2198 |
| 510029 | 17.0519 | 17.7124 | 18.4668 | 17.7625 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 510030 | 18.3137 | 17.4198 | 17.7603 | 17.8189 |
| 510031 | 18.4887 | 28.6673 | 18.6341 | 21.0020 |
| 510033 | 18.8061 | 18.4082 | 18.4718 | 18.5670 |
| 510035 | 18.6471 | 16.5007 | 18.3164 | 17.7425 |
| 510036 | 13.1995 | 13.4559 | 13.8786 | 13.5021 |
| 510038 | 14.3433 | 15.8132 | 15.5576 | 15.2710 |
| 510039 | 16.0555 | 16.9398 | 17.1461 | 16.7060 |
| 510043 | 14.2872 | 14.0662 | 13.1308 | 13.8129 |
| 510046 | 17.7320 | 17.3821 | 18.5896 | 17.9120 |
| 510047 | 19.1202 | 19.8963 | 20.8101 | 19.9042 |
| 510048 | 20.3734 | 21.0407 | 17.1647 | 19.5052 |
| 510050 | 16.5681 | 16.9136 | 18.4036 | 17.3154 |
| 510053 | 15.5856 | 16.1036 | 17.5798 | 16.4010 |
| 510055 | 22.8376 | 23.7248 | 24.2133 | 23.6043 |
| 510058 | 17.9786 | 18.4156 | 18.4501 | 18.2860 |
| 510059 | 16.7732 | 16.5854 | 16.1044 | 16.5068 |
| 510060 | 15.6581 | 17.5594 | * | 16.5969 |
| 510061 | 14.2227 | 13.8204 | 14.1968 | 14.0767 |
| 510062 | 17.6276 | 19.3881 | 18.1588 | 18.4173 |
| 510065 | 14.5882 | * | * | 14.5882 |
| 510066 | 12.7164 | 12.2943 | * | 12.5091 |
| 510067 | 18.1079 | 16.7161 | 17.3067 | 17.3634 |
| 510068 | 16.2864 | 18.7938 | 23.0452 | 19.1223 |
| 510070 | 16.3616 | 18.5146 | 18.7091 | 17.9505 |
| 510071 | 16.2390 | 17.2148 | 18.0278 | 17.1797 |
| 510072 | 17.6579 | 15.6262 | 15.9257 | 16.4174 |
| 510077 | 16.4111 | 18.0668 | 18.2947 | 17.6316 |
| 510080 | 14.7966 | 17.4485 | 16.3453 | 16.1690 |
| 510081 | 13.0020 | 13.6359 | 11.9701 | 12.8648 |
| 510082 | 13.6905 | 17.4538 | 13.5946 | 14.7307 |
| 510084 | 12.4820 | 17.2395 | 13.5339 | 14.4076 |
| 510085 | 18.6367 | 17.5624 | 18.6227 | 18.2581 |
| 510086 | 13.7937 | 13.4763 | 14.2241 | 13.8304 |
| 510088 | * | * | 14.8854 | 14.8854 |
| 520002 | 18.3521 | 19.7447 | 19.6755 | 19.2773 |
| 520003 | 16.4334 | 17.1248 | 18.7956 | 17.5028 |
| 520004 | 18.1744 | 19.6512 | 20.4591 | 19.4206 |
| 520006 | 20.4446 | 21.5313 | 21.4884 | 21.1400 |
| 520007 | 13.1087 | 16.2001 | 18.4629 | 16.0134 |
| 520008 | 22.8024 | 22.8024 | 24.9395 | 23.5372 |
| 520009 | 18.5094 | 18.6002 | 21.4638 | 19.4842 |
| 520010 | 20.3447 | 22.7703 | 22.3311 | 21.8215 |
| 520011 | 20.3797 | 20.7410 | 21.5223 | 20.8830 |
| 520013 | 21.6289 | 20.3965 | 20.5944 | 20.8585 |
| 520014 | 16.3989 | 17.1646 | 18.0841 | 17.1764 |
| 520015 | 18.3185 | 18.6078 | 19.7672 | 18.9031 |
| 520016 | 13.2889 | 17.3018 | 18.4320 | 16.1862 |
| 520017 | 19.3179 | 19.6008 | 19.4780 | 19.4685 |
| 520018 | 18.6441 | 21.1941 | 21.5279 | 20.5280 |
| 520019 | 18.3143 | 19.5440 | 20.9164 | 19.5698 |
| 520021 | 20.0355 | 21.3471 | 21.9531 | 21.1390 |
| 520024 | 14.6107 | 14.0175 | 14.4750 | 14.3609 |
| 520025 | 18.1086 | 18.2430 | 20.3838 | 18.8661 |
| 520026 | 19.8131 | 21.5453 | 20.8546 | 20.7335 |
| 520027 | 18.9085 | 19.9324 | 21.5868 | 20.1744 |
| 520028 | 19.1370 | 21.2852 | 22.5941 | 20.9020 |
| 520029 | 16.7520 | 19.5750 | 21.4197 | 19.2161 |
| 520030 | 20.0043 | 20.5039 | 21.6311 | 20.7089 |
| 520031 | 18.7066 | 20.4814 | 20.9875 | 19.9520 |
| 520032 | 17.9007 | 19.5697 | 21.1069 | 19.5434 |
| 520033 | 18.8906 | 19.2954 | 20.2520 | 19.4725 |
| 520034 | 16.6858 | 17.1282 | 20.4307 | 18.0336 |
| 520035 | 17.0997 | 18.9452 | 18.7135 | 18.2608 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 520037 | 20.0516 | 20.6686 | 21.6017 | 20.7624 |
| 520038 | 17.7074 | 19.6294 | 20.6130 | 19.3169 |
| 520039 | 19.5990 | 20.7641 | 23.3687 | 21.1069 |
| 520040 | 20.7420 | 20.4677 | 21.2023 | 20.8002 |
| 520041 | 15.3666 | 17.1959 | 18.4117 | 16.9517 |
| 520042 | 17.6577 | 18.5843 | 19.5466 | 18.6338 |
| 520044 | 17.7932 | 18.4014 | 19.1877 | 18.4535 |
| 520045 | 19.6736 | 20.5917 | 21.2427 | 20.5162 |
| 520047 | 17.8702 | 18.3048 | 20.3487 | 18.7633 |
| 520048 | 19.1712 | 20.6583 | 19.8926 | 19.9142 |
| 520049 | 19.5727 | 20.3559 | 20.1667 | 20.0444 |
| 520051 | 19.7416 | 21.6497 | 24.0460 | 21.7205 |
| 520053 | 16.4887 | 17.3945 | 18.0851 | 17.3336 |
| 520054 | 15.9873 | 15.1747 | 16.8363 | 15.9586 |
| 520057 | 18.3186 | 19.0872 | 19.8492 | 19.0812 |
| 520058 | 18.1264 | 19.7283 | 21.2500 | 19.7133 |
| 520059 | 19.8530 | 20.9913 | 21.5796 | 20.8254 |
| 520060 | 17.1675 | 17.9258 | 18.8232 | 17.9582 |
| 520062 | 17.8000 | 19.1482 | 19.7038 | 18.8681 |
| 520063 | 20.7744 | 19.6136 | 20.5262 | 20.3055 |
| 520064 | 21.4586 | 22.7423 | 22.0917 | 22.0917 |
| 520066 | 22.4419 | 22.8837 | 24.0087 | 23.0580 |
| 520068 | 18.0798 | 18.9943 | 19.6855 | 18.9053 |
| 520069 | 17.9133 | 20.2934 | 20.1770 | 19.3716 |
| 520070 | 17.8192 | 18.5938 | 19.4261 | 18.6155 |
| 520071 | 18.7861 | 18.7304 | 19.9866 | 19.1576 |
| 520074 | 18.6923 | 20.4601 | 20.9007 | 20.0036 |
| 520075 | 19.0891 | 19.8457 | 20.7301 | 19.8876 |
| 520076 | 16.5072 | 17.6088 | 19.5878 | 17.8567 |
| 520077 | 15.5427 | 17.7830 | 18.7119 | 17.3266 |
| 520078 | 20.5559 | 21.3380 | 21.7545 | 21.2404 |
| 520082 | 16.7417 | 17.7405 | * | 17.1848 |
| 520083 | 22.5715 | 23.8849 | 23.5787 | 23.3411 |
| 520084 | 18.9475 | 20.8427 | 23.5446 | 21.0737 |
| 520087 | 19.3942 | 20.3624 | 20.7821 | 20.1850 |
| 520088 | 20.1529 | 20.6312 | 21.8931 | 20.8632 |
| 520089 | 20.6110 | 21.5456 | 22.1055 | 21.4053 |
| 520090 | 18.0026 | 18.9343 | 20.3645 | 19.1272 |
| 520091 | 20.0693 | 20.9927 | 20.9440 | 20.6686 |
| 520092 | 17.5577 | 17.6500 | 18.6248 | 17.9402 |
| 520094 | 19.7791 | 20.3611 | 20.6179 | 20.2438 |
| 520095 | 18.5066 | 20.3269 | 18.6425 | 19.1370 |
| 520096 | 19.2980 | 19.7757 | 20.6668 | 19.9365 |
| 520097 | 19.6470 | 20.2354 | 20.8016 | 20.2268 |
| 520098 | 20.0289 | 22.3348 | 23.4707 | 21.9054 |
| 520100 | 18.3788 | 18.3832 | 19.4788 | 18.7419 |
| 520101 | 17.8453 | 19.5186 | 19.9875 | 19.1542 |
| 520102 | 19.8354 | 20.1898 | 21.0138 | 20.3351 |
| 520103 | 21.2324 | 19.4809 | 20.1092 | 20.2137 |
| 520107 | 20.5441 | 20.3747 | 21.7907 | 20.8828 |
| 520109 | 18.6322 | 19.1303 | 19.7609 | 19.1753 |
| 520110 | 20.0319 | 20.4494 | 21.0055 | 20.5065 |
| 520111 | 17.2388 | 17.7834 | 17.7673 | 17.6163 |
| 520112 | 18.1827 | 19.1797 | 18.9577 | 18.7858 |
| 520113 | 20.5925 | 21.1485 | 21.8852 | 21.2341 |
| 520114 | 17.3799 | 16.6616 | 17.8476 | 17.2735 |
| 520115 | 17.3755 | 18.2980 | 19.2248 | 18.2555 |
| 520116 | 18.5698 | 19.8509 | 20.6922 | 19.7165 |
| 520117 | 17.4242 | 18.5414 | 18.3963 | 18.1365 |
| 520118 | 12.4422 | 14.2326 | 14.8626 | 13.8369 |
| 520120 | 15.6205 | 18.7437 | * | 17.3887 |
| 520121 | 17.5851 | 19.7305 | 20.8492 | 19.5992 |
| 520122 | 16.7552 | 16.2436 | 16.9335 | 16.6326 |

* Asterisk denotes wage data not available for the provider that year.
** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

| Provider No. | Average Hourly Wage FY 00 | Average Hourly Wage FY 01 | Average Hourly Wage FY 02 | Average** Hourly Wage (3 yrs) |
|---|---|---|---|---|
| 520123 | 17.4135 | 17.3980 | 17.7986 | 17.5610 |
| 520124 | 16.3902 | 17.2619 | 17.9205 | 17.1864 |
| 520130 | 15.1639 | 15.6845 | 16.6873 | 15.8395 |
| 520131 | 18.8043 | 18.7295 | 20.2591 | 19.2549 |
| 520132 | 17.2759 | 15.6379 | 18.1630 | 16.9564 |
| 520134 | 17.6094 | 18.0953 | 18.8150 | 18.1846 |
| 520135 | 14.4748 | 15.8246 | 17.3476 | 15.9083 |
| 520136 | 19.9935 | 19.8480 | 20.9050 | 20.2727 |
| 520138 | 20.8922 | 21.2260 | 22.5599 | 21.5577 |
| 520139 | 21.2797 | 20.9988 | 21.4042 | 21.2251 |
| 520140 | 21.4175 | 21.5207 | 22.3671 | 21.7731 |
| 520141 | 16.9543 | * | * | 16.9543 |
| 520142 | 17.7003 | 20.5858 | 21.9432 | 19.9586 |
| 520144 | 16.6231 | 18.5701 | 19.9120 | 18.4107 |
| 520145 | 17.2356 | 18.2654 | 18.7958 | 18.1015 |
| 520146 | 15.7318 | 17.9585 | 18.2370 | 17.3448 |
| 520148 | 16.9293 | 17.2421 | 19.1502 | 17.8057 |
| 520149 | 13.3032 | 14.1901 | 12.8928 | 13.4360 |
| 520151 | 18.0771 | 17.3267 | 18.7070 | 18.0230 |
| 520152 | 21.3333 | 19.5858 | 22.5980 | 21.0747 |
| 520153 | 15.4467 | 15.9753 | 17.0863 | 16.1441 |
| 520154 | 17.9229 | 18.5403 | 19.5994 | 18.6875 |
| 520156 | 19.8396 | 21.3377 | 20.9638 | 20.7243 |
| 520157 | 17.2784 | 17.1974 | 19.6008 | 18.0185 |
| 520159 | 18.7423 | 18.6760 | 17.7649 | 18.3871 |
| 520160 | 18.8444 | 19.4173 | 20.5154 | 19.5953 |
| 520161 | 18.5742 | 19.4905 | 20.1102 | 19.4069 |
| 520170 | 22.5033 | 21.5233 | 21.9857 | 21.9871 |
| 520171 | 15.7316 | 17.4560 | 18.0785 | 17.1053 |
| 520173 | 20.1410 | 21.3016 | 20.9209 | 20.7812 |
| 520177 | 21.7609 | 22.7221 | 24.0139 | 22.8278 |
| 520178 | 17.0411 | 18.6936 | 20.9010 | 18.7748 |
| 520188 | * | 13.9135 | * | 13.9135 |
| 530002 | 17.5888 | 19.3273 | 21.0560 | 19.3920 |
| 530003 | 15.7813 | 16.2139 | 15.9523 | 15.9820 |
| 530004 | 16.1862 | 15.0497 | 13.3788 | 14.7758 |
| 530005 | 15.1487 | 13.3529 | 15.3255 | 14.5529 |
| 530006 | 19.3403 | 18.5894 | 19.1305 | 19.0082 |
| 530007 | 18.0601 | 18.5161 | 17.7897 | 18.1450 |
| 530008 | 22.9625 | 18.8349 | 19.0113 | 20.0471 |
| 530009 | 19.4478 | 22.5009 | 21.7795 | 21.2113 |
| 530010 | 18.9317 | 21.6092 | 13.9536 | 17.6719 |
| 530011 | 17.4412 | 18.7354 | 19.4606 | 18.5542 |
| 530012 | 19.4829 | 18.9923 | 21.1854 | 19.8564 |
| 530014 | 17.3158 | 18.0869 | 18.4900 | 17.9675 |
| 530015 | 22.6465 | 22.4568 | 23.4040 | 22.8118 |
| 530016 | 17.7084 | 18.1562 | 19.3205 | 18.4153 |
| 530017 | 13.7131 | 16.3478 | 17.7736 | 15.9421 |
| 530018 | 17.8699 | 18.3783 | 19.5986 | 18.6254 |
| 530019 | 16.7630 | 18.5430 | 20.1097 | 18.3351 |
| 530022 | 17.8781 | 18.5002 | 19.6136 | 18.7082 |
| 530023 | 20.7527 | 20.1948 | 20.0677 | 20.3449 |
| 530025 | 20.3200 | 21.2598 | 22.0300 | 21.1974 |
| 530026 | 18.9175 | 17.0118 | 19.8969 | 18.4992 |
| 530027 | 29.7722 | 18.1664 | 25.5067 | 22.9705 |
| 530029 | 17.7993 | 16.5092 | 19.3361 | 17.7626 |
| 530031 | 13.3775 | 18.3322 | 20.1734 | 17.2600 |
| 530032 | 20.2143 | 21.0361 | 20.0132 | 20.4281 |

*Asterisk denotes wage data not available for the provider that year.
**The 3-year average hourly wage is weighted by salaries and hours.

TABLE 3A.—FY 2002 AND 3-YEAR* AVERAGE HOURLY WAGE FOR URBAN AREAS

[*Based on the sum of the salaries and hours computed for Federal fiscal years 2000, 2001, and 2002]

| Urban Area | FY 2002 Average Hourly Wage | 3-Year Average Hourly Wage |
|---|---|---|
| Abilene, TX | 17.7691 | 17.6806 |
| Aguadilla, PR | 10.4485 | 9.2769 |
| Akron, OH | 22.0323 | 21.5752 |
| Albany, GA | 23.7363 | 22.4591 |
| Albany-Schenectady-Troy, NY | 18.9628 | 18.7015 |
| Albuquerque, NM | 21.7519 | 19.8583 |
| Alexandria, LA | 17.9113 | 17.4211 |
| Allentown-Bethlehem-Easton, PA | 22.4824 | 21.9015 |
| Altoona, PA | 20.3592 | 20.1685 |
| Amarillo, TX | 19.4329 | 18.7074 |
| Anchorage, AK | 28.0436 | 27.7208 |
| Ann Arbor, MI | 24.7586 | 24.5264 |
| Anniston, AL | 18.4627 | 18.1432 |
| Appleton-Oshkosh-Neenah, WI | 20.6158 | 19.7313 |
| Arecibo, PR | 10.3287 | 10.1229 |
| Asheville, NC | 20.5253 | 19.9864 |
| Athens, GA | 21.9578 | 21.2433 |
| Atlanta, GA | 22.4386 | 21.9090 |
| Atlantic-Cape May, NJ | 25.1942 | 24.4875 |
| Auburn-Opelika, AL | 18.3605 | 17.4403 |
| Augusta-Aiken, GA-SC | 22.2437 | 20.3470 |
| Austin-San Marcos, TX | 21.4095 | 20.5134 |
| Bakersfield, CA | 21.2373 | 20.8780 |
| Baltimore, MD | 21.9879 | 21.1182 |
| Bangor, ME | 21.4017 | 20.8620 |
| Barnstable-Yarmouth, MA | 30.3987 | 29.5566 |
| Baton Rouge, LA | 18.1796 | 18.6154 |
| Beaumont-Port Arthur, TX | 18.8344 | 18.7128 |
| Bellingham, WA | 26.3828 | 25.1714 |
| Benton Harbor, MI | 19.8256 | 18.8187 |
| Bergen-Passaic, NJ | 26.0785 | 25.7821 |
| Billings, MT | 20.8647 | 20.9984 |
| Biloxi-Gulfport-Pascagoula, MS | 18.8292 | 17.8351 |
| Binghamton, NY | 18.8434 | 18.7661 |
| Birmingham, AL | 19.6498 | 19.0252 |
| Bismarck, ND | 17.8118 | 16.9730 |
| Bloomington,IN | 19.7257 | 18.9710 |
| Bloomington-Normal, IL | 20.1643 | 19.6505 |
| Boise City, ID | 20.1899 | 19.6753 |
| Boston-Worcester-Lawrence-Lowell-Brockton, MA-NH | 25.1952 | 24.5070 |
| Boulder-Longmont, CO | 21.8607 | 21.3813 |
| Brazoria, TX | 18.3149 | 18.3834 |
| Bremerton, WA | 24.0007 | 23.7403 |
| Brownsville-Harlingen-San Benito, TX | 20.1061 | 19.5499 |
| Bryan-College Station, TX | 20.8102 | 18.8209 |
| Buffalo-Niagara Falls, NY | 21.1015 | 20.7620 |
| Burlington, VT | 22.0478 | 22.5833 |
| Caguas, PR | 10.4833 | 10.0219 |
| Canton-Massillon, OH | 19.9801 | 19.0700 |
| Casper, WY | 21.1855 | 19.8564 |
| Cedar Rapids, IA | 19.4080 | 19.1733 |
| Champaign-Urbana, IL | 20.7605 | 20.0368 |
| Charleston-North Charleston, SC | 20.5383 | 19.7662 |
| Charleston, WV | 20.6672 | 20.0125 |
| Charlotte-Gastonia-Rock Hill, NC-SC | 20.8279 | 20.4253 |
| Charlottesville, VA | 23.5721 | 23.1481 |
| Chattanooga, TN-GA | 20.9025 | 20.9736 |
| Cheyenne, WY | 18.4900 | 17.9675 |
| Chicago, IL | 24.6432 | 23.9647 |
| Chico-Paradise, CA | 21.9881 | 21.8619 |
| Cincinnati, OH-KY-IN | 21.1338 | 20.5246 |
| Clarksville-Hopkinsville, TN-KY | 18.5997 | 17.8563 |
| Cleveland-Lorain-Elyria, OH | 21.0982 | 20.8296 |
| Colorado Springs, CO | 21.7395 | 20.8047 |
| Columbia, MO | 19.3787 | 19.2453 |
| Columbia, SC | 21.1766 | 20.5897 |
| Columbus, GA-AL | 18.8304 | 18.5114 |
| Columbus, OH | 21.3384 | 21.0849 |
| Corpus Christi, TX | 18.6084 | 18.6824 |
| Corvallis, OR | 25.9828 | 24.7413 |
| Cumberland, MD-WV | 18.5294 | 18.4566 |
| Dallas, TX | 22.1658 | 21.3656 |
| Danville, VA | 19.2156 | 19.0267 |
| Davenport-Moline-Rock Island, IA-IL | 19.2716 | 19.0340 |
| Dayton-Springfield, OH | 20.5800 | 20.3849 |
| Daytona Beach, FL | 20.0167 | 19.7043 |
| Decatur, AL | 19.5764 | 18.8565 |
| Decatur, IL | 17.8196 | 17.7118 |
| Denver, CO | 23.0415 | 22.2645 |
| Des Moines, IA | 19.5864 | 19.3257 |
| Detroit, MI | 23.3966 | 22.7762 |
| Dothan, AL | 17.7316 | 17.1772 |
| Dover, DE | 22.9706 | 21.5842 |
| Dubuque, IA | 19.0053 | 18.6795 |
| Duluth-Superior, MN-WI | 22.9429 | 22.1011 |
| Dutchess County, NY | 23.4959 | 22.7248 |
| Eau Claire, WI | 19.8536 | 19.3107 |
| El Paso, TX | 20.5588 | 19.9419 |
| Elkhart-Goshen, IN | 21.5029 | 20.4359 |
| Elmira, NY | 18.7740 | 18.4812 |
| Enid, OK | 18.6448 | 18.0515 |
| Erie, PA | 19.4447 | 19.3682 |
| Eugene-Springfield, OR | 25.5919 | 23.9337 |
| Evansville, Henderson, IN-KY | 18.9936 | 18.1304 |
| Fargo-Moorhead, ND-MN | 20.6740 | 19.3632 |
| Fayetteville, NC | 20.1393 | 19.0183 |
| Fayetteville-Springdale-Rogers, AR | 18.8407 | 17.4532 |
| Flagstaff, AZ-UT | 23.5500 | 22.9479 |
| Flint, MI | 24.3455 | 24.0039 |
| Florence, AL | 17.5023 | 16.9533 |
| Florence, SC | 19.4593 | 18.9517 |
| Fort Collins-Loveland, CO | 22.4100 | 22.4773 |
| Fort Lauderdale, FL | 22.9622 | 22.1804 |
| Fort Myers-Cape Coral, FL | 20.9121 | 19.9782 |
| Fort Pierce-Port St. Lucie, FL | 22.7860 | 21.5773 |
| Fort Smith, AR-OK | 17.9648 | 17.3902 |
| Fort Walton Beach, FL | 20.0841 | 19.8202 |
| Fort Wayne, IN | 20.5313 | 19.5510 |
| Fort Worth-Arlington, TX | 20.9570 | 20.8452 |
| Fresno, CA | 22.2730 | 22.0075 |
| Gadsden, AL | 19.6146 | 18.7634 |
| Gainesville, FL | 21.1521 | 21.4897 |
| Galveston-Texas City, TX | 23.0087 | 21.6646 |
| Gary, IN | 21.2620 | 20.5771 |
| Glens Falls, NY | 18.5967 | 18.3428 |
| Goldsboro, NC | 19.4302 | 18.4900 |
| Grand Forks, ND-MN | 20.2317 | 19.5346 |
| Grand Junction, CO | 21.3486 | 20.1879 |
| Grand Rapids-Muskegon-Holland, MI | 22.4166 | 22.0645 |
| Great Falls, MT | 19.7878 | 20.7979 |
| Greeley, CO | 21.1820 | 21.0411 |
| Green Bay, WI | 20.5432 | 19.9981 |
| Greensboro-Winston-Salem-High Point, NC | 21.2803 | 20.0780 |
| Greenville, NC | 20.7237 | 20.4264 |
| Greenville-Spartanburg-Anderson, SC | 20.5626 | 19.8772 |
| Hagerstown, MD | 18.6617 | 19.2372 |
| Hamilton-Middletown, OH | 20.7196 | 19.8132 |
| Harrisburg-Lebanon-Carlisle, PA | 21.0273 | 20.8140 |
| Hartford, CT | 25.7288 | 25.0922 |
| Hattiesburg, MS | 16.6793 | 16.3839 |
| Hickory-Morganton-Lenoir, NC | 20.8978 | 19.9473 |
| Honolulu, HI | 25.7427 | 25.2694 |
| Houma, LA | 17.7919 | 17.3205 |
| Houston, TX | 21.4873 | 20.8626 |
| Huntington-Ashland, WV-KY-OH | 21.4522 | 21.2133 |
| Huntsville, AL | 19.8172 | 19.3336 |
| Indianapolis, IN | 21.6359 | 21.2238 |
| Iowa City, IA | 21.9959 | 21.1012 |
| Jackson, MI | 20.6529 | 19.7626 |
| Jackson, MS | 18.9422 | 18.6455 |
| Jackson, TN | 20.1078 | 19.1864 |
| Jacksonville, FL | 20.5769 | 19.8750 |
| Jacksonville, NC | 17.0034 | 16.8680 |
| Jamestown, NY | 17.9583 | 17.1876 |

TABLE 3A.—FY 2002 AND 3-YEAR* AVERAGE HOURLY WAGE FOR URBAN AREAS—Continued

[*Based on the sum of the salaries and hours computed for Federal fiscal years 2000, 2001, and 2002]

| Urban Area | FY 2002 Average Hourly Wage | 3-Year Average Hourly Wage |
|---|---|---|
| Janesville-Beloit, WI | 21.7281 | 20.9886 |
| Jersey City, NJ | 24.9369 | 24.8965 |
| Johnson City-Kingsport-Bristol, TN-VA | 19.2235 | 18.6571 |
| Johnstown, PA | 19.4611 | 18.9954 |
| Jonesboro, AR | 18.7961 | 16.9923 |
| Joplin, MO | 19.4696 | 17.8013 |
| Kalamazoo-Battlecreek, MI | 23.7355 | 22.5300 |
| Kankakee, IL | 22.0627 | 20.5487 |
| Kansas City, KS-MO | 21.2753 | 20.5840 |
| Kenosha, WI | 21.3454 | 20.4490 |
| Killeen-Temple, TX | 16.2682 | 19.9750 |
| Knoxville, TN | 19.8337 | 19.1504 |
| Kokomo, IN | 20.3602 | 19.9881 |
| La Crosse, WI-MN | 20.6365 | 19.8718 |
| Lafayette, LA | 19.0613 | 18.3994 |
| Lafayette, IN | 20.3481 | 19.3998 |
| Lake Charles, LA | 17.3224 | 16.7485 |
| Lakeland-Winter Haven, FL | 20.2272 | 19.6704 |
| Lancaster, PA | 20.7395 | 20.1687 |
| Lansing-East Lansing, MI | 21.5357 | 21.4297 |
| Laredo, TX | 17.5103 | 17.6390 |
| Las Cruces, NM | 19.2336 | 18.7690 |
| Las Vegas, NV-AZ | 24.9460 | 24.1211 |
| [1] Lawrence, KS | ..... | 17.6233 |
| Lawton, OK | 19.3702 | 19.7127 |
| Lewiston-Auburn, ME | 20.7185 | 19.7537 |
| Lexington, KY | 19.6123 | 18.9899 |
| Lima, OH | 21.1268 | 20.0862 |
| Lincoln, NE | 22.6963 | 21.4133 |
| Little Rock-North Little Rock, AR | 19.9791 | 19.2054 |
| Longview-Marshall, TX | 19.1225 | 19.0256 |
| Los Angeles-Long Beach, CA | 26.6548 | 26.0962 |
| Louisville, KY-IN | 21.2596 | 20.4841 |
| Lubbock, TX | 18.8491 | 18.6166 |
| Lynchburg, VA | 20.3083 | 19.4241 |
| Macon, GA | 19.9824 | 19.2057 |
| Madison, WI | 23.0613 | 21.9843 |
| Mansfield, OH | 19.4276 | 18.7455 |
| Mayaguez, PR | 10.8433 | 10.2295 |
| McAllen-Edinburg-Mission, TX | 18.6914 | 18.1962 |
| Medford-Ashland, OR | 23.0097 | 22.6022 |
| Melbourne-Titusville-Palm Bay, FL | 22.1149 | 20.9722 |
| Memphis, TN-AR-MS | 20.0303 | 18.8000 |
| Merced, CA | 22.1904 | 21.6193 |
| Miami, FL | 22.1977 | 21.9246 |
| Middlesex-Somerset-Hunterdon, NJ | 25.5879 | 24.3992 |
| Milwaukee-Waukesha, WI | 22.2459 | 21.4514 |
| Minneapolis-St. Paul, MN-WI | 24.3849 | 23.8437 |
| Missoula, MT | 20.8911 | 20.0992 |
| Mobile, AL | 18.0301 | 17.7727 |
| Modesto, CA | 24.1386 | 22.6578 |
| Monmouth-Ocean, NJ | 24.2514 | 24.2156 |
| Monroe, LA | 18.2960 | 18.0030 |
| Montgomery, AL | 16.4170 | 16.4651 |
| Muncie, IN | 22.1725 | 22.9671 |
| Myrtle Beach, SC | 19.5681 | 18.6951 |
| Naples, FL | 21.6388 | 21.1816 |
| Nashville, TN | 21.7612 | 20.8163 |
| Nassau-Suffolk, NY | 30.4363 | 30.1896 |
| New Haven-Bridgeport-Stamford-Waterbury-Danbury, CT | 27.3029 | 26.7357 |
| New London-Norwich, CT | 25.7135 | 26.0913 |
| New Orleans, LA | 20.1579 | 19.8724 |
| New York, NY | 32.1854 | 31.5830 |
| Newark, NJ | 25.9290 | 25.4360 |
| Newburgh, NY-PA | 24.7917 | 23.8549 |
| Norfolk-Virginia Beach-Newport News, VA-NC | 19.1397 | 18.4429 |
| Oakland, CA | 34.1768 | 32.8934 |
| Ocala, FL | 21.3185 | 20.6236 |
| Odessa-Midland, TX | 22.5425 | 20.4491 |
| Oklahoma City, OK | 19.3952 | 18.9190 |
| Olympia, WA | 25.3219 | 23.8950 |
| Omaha, NE-IA | 21.6670 | 21.5315 |
| Orange County, CA | 24.8160 | 24.7793 |
| Orlando, FL | 21.5114 | 21.0699 |
| Owensboro, KY | 18.5923 | 17.8512 |
| Panama City, FL | 20.2145 | 19.7652 |
| Parkersburg-Marietta, WV-OH | 18.1448 | 17.9931 |
| Pensacola, FL | 18.6539 | 18.1053 |
| Peoria-Pekin, IL | 19.5717 | 18.6727 |
| Philadelphia, PA-NJ | 24.4217 | 23.9480 |
| Phoenix-Mesa, AZ | 21.5030 | 20.8692 |
| Pine Bluff, AR | 17.6144 | 16.9553 |
| Pittsburgh, PA | 21.3283 | 20.9676 |
| Pittsfield, MA | 22.9287 | 22.3291 |
| Pocatello, ID | 21.0779 | 19.9570 |
| Ponce, PR | 11.6402 | 11.0089 |
| Portland, ME | 21.0314 | 20.7690 |
| Portland-Vancouver, OR-WA | 24.7891 | 23.9331 |
| Providence-Warwick, RI | 24.1057 | 23.4709 |
| Provo-Orem, UT | 21.9597 | 21.5577 |
| Pueblo, CO | 19.1954 | 19.0481 |
| Punta Gorda, FL | 20.1130 | 20.3995 |
| Racine, WI | 20.8222 | 20.1696 |
| Raleigh-Durham-Chapel Hill, NC | 21.9030 | 21.0278 |
| Rapid City, SD | 19.7860 | 18.9541 |
| Reading, PA | 21.3801 | 20.4191 |
| Redding, CA | 24.8864 | 24.7297 |
| Reno, NV | 23.2497 | 22.9230 |
| Richland-Kennewick-Pasco, WA | 24.4507 | 24.4034 |
| Richmond-Petersburg, VA | 21.5917 | 20.8973 |
| Riverside-San Bernardino, CA | 24.7903 | 24.3425 |
| Roanoke, VA | 18.6747 | 18.3527 |
| Rochester, MN | 25.5712 | 24.8162 |
| Rochester, NY | 20.8521 | 20.0838 |
| Rockford, IL | 20.5343 | 19.4475 |
| Rocky Mount, NC | 20.3213 | 19.3679 |
| Sacramento, CA | 26.3945 | 26.1465 |
| Saginaw-Bay City-Midland, MI | 21.3941 | 20.6362 |
| St. Cloud, MN | 21.9780 | 21.3047 |
| [1] St. Joseph, MO | ..... | 19.3531 |
| St. Louis, MO-IL | 19.9244 | 19.5996 |
| Salem, OR | 22.3342 | 21.8859 |
| Salinas, CA | 32.7598 | 31.8419 |
| Salt Lake City-Ogden, UT | 22.0030 | 21.4144 |
| San Angelo, TX | 18.2784 | 17.4362 |
| San Antonio, TX | 19.1516 | 18.4593 |
| San Diego, CA | 25.1307 | 25.3474 |
| San Francisco, CA | 31.5450 | 30.6851 |
| San Jose, CA | 31.6633 | 30.0720 |
| San Juan-Bayamon, PR | 10.6229 | 10.2284 |
| San Luis Obispo-Atascadero-Paso Robles, CA | 24.5182 | 23.3041 |
| Santa Barbara-Santa Maria-Lompoc, CA | 24.0983 | 23.3594 |
| Santa Cruz-Watsonville, CA | 31.1654 | 30.4145 |
| Santa Fe, NM | 22.7435 | 22.5866 |
| Santa Rosa, CA | 29.0793 | 28.0256 |
| Sarasota-Bradenton, FL | 22.5102 | 21.6154 |
| Savannah, GA | 20.6199 | 20.9278 |
| Scranton-Wilkes Barre-Hazleton, PA | 19.3713 | 18.4721 |
| Seattle-Bellevue-Everett, WA | 25.3458 | 24.3975 |
| Sharon, PA | 17.6824 | 17.4957 |
| Sheboygan, WI | 18.7992 | 18.1442 |
| Sherman-Denison, TX | 20.9115 | 19.8213 |
| Shreveport-Bossier City, LA | 20.1898 | 19.4576 |
| Sioux City, IA-NE | 19.5588 | 18.6963 |
| Sioux Falls, SD | 20.3884 | 19.3356 |
| South Bend, IN | 22.2935 | 21.5894 |
| Spokane, WA | 23.7995 | 23.1813 |
| Springfield, IL | 19.3559 | 18.8869 |
| Springfield, MO | 19.1121 | 18.1563 |
| Springfield, MA | 24.2745 | 23.3313 |
| State College, PA | 20.3757 | 19.7984 |
| Steubenville-Weirton, OH-WV | 19.2689 | 18.6797 |
| Stockton-Lodi, CA | 24.1271 | 23.2304 |
| Sumter, SC | 17.3876 | 17.6174 |
| Syracuse, NY | 21.4641 | 20.7071 |
| Tacoma, WA | 25.9158 | 25.1530 |
| Tallahassee, FL | 19.0232 | 18.5413 |
| Tampa-St. Petersburg-Clearwater, FL | 19.9114 | 19.5352 |
| Terre Haute, IN | 19.0337 | 18.4440 |
| Texarkana, AR-Texarkana, TX | 18.5780 | 17.9809 |
| Toledo, OH | 21.8824 | 21.3504 |

TABLE 3A.—FY 2002 AND 3-YEAR* AVERAGE HOURLY WAGE FOR URBAN AREAS—Continued

[*Based on the sum of the salaries and hours computed for Federal fiscal years 2000, 2001, and 2002]

| Urban Area | FY 2002 Average Hourly Wage | 3-Year Average Hourly Wage |
|---|---|---|
| Topeka, KS | 19.8816 | 19.8271 |
| Trenton, NJ | 23.2382 | 22.2118 |
| Tucson, AZ | 20.0050 | 19.2367 |
| Tulsa, OK | 19.8607 | 18.4406 |
| Tuscaloosa, AL | 18.2284 | 17.6510 |
| Tyler, TX | 21.5091 | 20.6026 |
| Utica-Rome, NY | 18.5820 | 18.2679 |
| Vallejo-Fairfield-Napa, CA | 30.2552 | 28.8147 |
| Ventura, CA | 24.5276 | 24.2700 |
| Victoria, TX | 18.5790 | 18.0303 |
| Vineland-Millville-Bridgeton, NJ | 23.2940 | 22.8113 |
| Visalia-Tulare-Porterville, CA | 21.4790 | 21.4191 |
| Waco, TX | 18.1355 | 17.7707 |
| Washington, DC-MD-VA-WV | 24.4550 | 23.7621 |
| Waterloo-Cedar Falls, IA | 17.9383 | 18.0820 |
| Wausau, WI | 21.6311 | 20.7089 |
| West Palm Beach-Boca Raton, FL | 21.8130 | 21.3673 |
| Wheeling, OH-WV | 17.8134 | 16.9419 |
| Wichita, KS | 21.4307 | 20.6976 |
| Wichita Falls, TX | 17.5498 | 16.8374 |
| Williamsport, PA | 19.2494 | 18.4198 |
| Wilmington-Newark, DE-MD | 24.2660 | 24.1627 |
| Wilmington, NC | 20.9901 | 20.6684 |
| Yakima, WA | 23.5754 | 22.3174 |
| Yolo, CA | 21.6430 | 21.4983 |
| York, PA | 21.0635 | 20.3115 |
| Youngstown-Warren, OH | 21.3343 | 21.0926 |
| Yuba City, CA | 23.1110 | 23.0076 |
| Yuma, AZ | 20.0535 | 20.5870 |

[1] The MSA is empty for FY 2002. The hospital(s) in the MSA received rural status under Section 401 of the Balanced Budget Refinement Act of 1999 (P.L. 106–113). The MSA is assigned the statewide rural wage index (see Table 4B).

TABLE 3B.—FY 2002 AND 3-YEAR* AVERAGE HOURLY WAGE FOR RURAL AREAS

[*Based on the sum of the salaries and hours computed for Federal Fiscal years 2000, 2001, and 2002]

| Nonurban Area | FY 2002 Average Hourly Wage | 3-Year Average Hourly Wage |
|---|---|---|
| Alabama | 16.3730 | 16.1146 |
| Alaska | 26.4636 | 26.3425 |
| Arizona | 19.3673 | 18.5370 |
| Arkansas | 16.7079 | 16.0831 |
| California | 21.5497 | 21.3758 |
| Colorado | 19.6575 | 19.2833 |
| Connecticut | 26.9422 | 26.2306 |

TABLE 3B.—FY 2002 AND 3-YEAR* AVERAGE HOURLY WAGE FOR RURAL AREAS—Continued

[*Based on the sum of the salaries and hours computed for Federal Fiscal years 2000, 2001, and 2002]

| Nonurban Area | FY 2002 Average Hourly Wage | 3-Year Average Hourly Wage |
|---|---|---|
| Delaware | 21.3930 | 20.2349 |
| Florida | 19.6192 | 19.3651 |
| Georgia | 18.5057 | 17.9168 |
| Hawaii | 24.7906 | 23.8356 |
| Idaho | 19.4497 | 18.9015 |
| Illinois | 17.9658 | 17.5928 |
| Indiana | 19.4553 | 18.6527 |
| Iowa | 18.1754 | 17.4857 |
| Kansas | 17.4286 | 16.6018 |
| Kentucky | 17.7644 | 17.3603 |
| Louisiana | 16.9467 | 16.4424 |
| Maine | 19.4557 | 18.9537 |
| Maryland | 19.7644 | 18.9527 |
| Massachusetts | 25.5523 | 24.6681 |
| Michigan | 20.0792 | 19.4470 |
| Minnesota | 20.1570 | 19.2809 |
| Mississippi | 16.7955 | 16.1984 |
| Missouri | 17.6049 | 16.9330 |
| Montana | 19.3090 | 18.6615 |
| Nebraska | 18.1647 | 17.6040 |
| Nevada | 21.6995 | 20.3605 |
| New Hampshire | 21.8156 | 21.4054 |
| New Jersey[1] | ..... | ..... |
| New Mexico | 19.3566 | 18.5498 |
| New York | 19.0675 | 18.6183 |
| North Carolina | 19.0403 | 18.3332 |
| North Dakota | 17.5784 | 16.8515 |
| Ohio | 19.3379 | 18.8488 |
| Oklahoma | 16.8803 | 16.1856 |
| Oregon | 22.3705 | 21.7851 |
| Pennsylvania | 19.2018 | 18.6374 |
| Puerto Rico | 10.7076 | 9.6394 |
| Rhode Island[1] | ..... | ..... |
| South Carolina | 18.9889 | 18.2492 |
| South Dakota | 17.5369 | 16.6639 |
| Tennessee | 17.6873 | 16.9880 |
| Texas | 17.2050 | 16.4636 |
| Utah | 20.1916 | 19.5942 |
| Vermont | 21.1189 | 20.4055 |
| Virginia | 18.3851 | 17.6464 |
| Washington | 22.7769 | 22.5424 |
| West Virginia | 17.9971 | 17.6684 |
| Wisconsin | 20.2251 | 19.3721 |
| Wyoming | 19.5145 | 19.1625 |

[1] All counties within the State are classified as urban.

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS

| Urban Area (Constituent Counties) | Wage Index | GAF |
|---|---|---|
| 0040 Abilene, TX<br>Taylor, TX | 0.7983 | 0.8570 |
| 0060 [2] Aguadilla, PR<br>Aguada, PR<br>Aguadilla, PR<br>Moca, PR | 0.4832 | 0.6077 |
| 0080 Akron, OH<br>Portage, OH<br>Summit, OH | 0.9876 | 0.9915 |

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

| Urban Area (Constituent Counties) | Wage Index | GAF |
|---|---|---|
| 0120 Albany, GA<br>Dougherty, GA<br>Lee, GA | 1.0640 | 1.0434 |
| 0160 [2] Albany-Schenectady-Troy, NY<br>Albany, NY<br>Montgomery, NY<br>Rensselaer, NY<br>Saratoga, NY<br>Schenectady, NY<br>Schoharie, NY | 0.8547 | 0.8981 |
| 0200 Albuquerque, NM<br>Bernalillo, NM<br>Sandoval, NM<br>Valencia, NM | 0.9750 | 0.9828 |
| 0220 Alexandria, LA<br>Rapides, LA | 0.8059 | 0.8626 |
| 0240 Allentown-Bethlehem-Easton, PA<br>Carbon, PA<br>Lehigh, PA<br>Northampton, PA | 1.0077 | 1.0053 |
| 0280 Altoona, PA<br>Blair, PA | 0.9126 | 0.9393 |
| 0320 Amarillo, TX<br>Potter, TX<br>Randall, TX | 0.8711 | 0.9098 |
| 0380 Anchorage, AK<br>Anchorage, AK | 1.2696 | 1.1776 |
| 0440 Ann Arbor, MI<br>Lenawee, MI<br>Livingston, MI<br>Washtenaw, MI | 1.1098 | 1.0739 |
| 0450 Anniston, AL<br>Calhoun, AL | 0.8276 | 0.8785 |
| 0460 Appleton-Oshkosh-Neenah, WI<br>Calumet, WI<br>Outagamie, WI<br>Winnebago, WI | 0.9241 | 0.9474 |
| 0470 [2] Arecibo, PR<br>Arecibo, PR<br>Camuy, PR<br>Hatillo, PR | 0.4832 | 0.6077 |
| 0480 Asheville, NC<br>Buncombe, NC<br>Madison, NC | 0.9200 | 0.9445 |
| 0500 Athens, GA<br>Clarke, GA<br>Madison, GA<br>Oconee, GA | 0.9842 | 0.9892 |
| 0520 [1] Atlanta, GA<br>Barrow, GA<br>Bartow, GA<br>Carroll, GA<br>Cherokee, GA<br>Clayton, GA<br>Cobb, GA<br>Coweta, GA<br>DeKalb, GA<br>Douglas, GA<br>Fayette, GA<br>Forsyth, GA<br>Fulton, GA<br>Gwinnett, GA<br>Henry, GA | 1.0058 | 1.0040 |

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

| Urban Area (Constituent Counties) | Wage Index | GAF |
|---|---|---|
| Newton, GA | | |
| Paulding, GA | | |
| Pickens, GA | | |
| Rockdale, GA | | |
| Spalding, GA | | |
| Walton, GA | | |
| 0560 Atlantic-Cape May, NJ | 1.1293 | 1.0868 |
| Atlantic, NJ | | |
| Cape May, NJ | | |
| 0580 Auburn-Opelika, AL | 0.8230 | 0.8751 |
| Lee, AL | | |
| 0600 Augusta-Aiken, GA-SC | 0.9970 | 0.9979 |
| Columbia, GA | | |
| McDuffie, GA | | |
| Richmond, GA | | |
| Aiken, SC | | |
| Edgefield, SC | | |
| 0640 [1] Austin-San Marcos, TX | 0.9597 | 0.9722 |
| Bastrop, TX | | |
| Caldwell, TX | | |
| Hays, TX | | |
| Travis, TX | | |
| Williamson, TX | | |
| 0680 [2] Bakersfield, CA | 0.9659 | 0.9765 |
| Kern, CA | | |
| 0720 [1] Baltimore, MD | 0.9856 | 0.9901 |
| Anne Arundel, MD | | |
| Baltimore, MD | | |
| Baltimore City, MD | | |
| Carroll, MD | | |
| Harford, MD | | |
| Howard, MD | | |
| Queen Anne's, MD | | |
| 0733 Bangor, ME | 0.9593 | 0.9719 |
| Penobscot, ME | | |
| 0743 Barnstable-Yarmouth, MA | 1.3626 | 1.2360 |
| Barnstable, MA | | |
| 0760 Baton Rouge, LA | 0.8149 | 0.8692 |
| Ascension, LA | | |
| East Baton Rouge, LA | | |
| Livingston, LA | | |
| West Baton Rouge, LA | | |
| 0840 Beaumont-Port Arthur, TX | 0.8442 | 0.8905 |
| Hardin, TX | | |
| Jefferson, TX | | |
| Orange, TX | | |
| 0860 Bellingham, WA | 1.1826 | 1.1217 |
| Whatcom, WA | | |
| 0870 [2] Benton Harbor, MI | 0.9000 | 0.9304 |
| Berrien, MI | | |
| 0875 [1] Bergen-Passaic, NJ | 1.1808 | 1.1205 |
| Bergen, NJ | | |
| Passaic, NJ | | |
| 0880 Billings, MT | 0.9352 | 0.9552 |
| Yellowstone, MT | | |
| 0920 Biloxi-Gulfport-Pascagoula, MS | 0.8440 | 0.8903 |
| Hancock, MS | | |
| Harrison, MS | | |
| Jackson, MS | | |
| 0960 [2] Binghamton, NY | 0.8547 | 0.8981 |
| Broome, NY | | |
| Tioga, NY | | |
| 1000 Birmingham, AL | 0.8808 | 0.9168 |
| Blount, AL | | |
| Jefferson, AL | | |
| St. Clair, AL | | |
| Shelby, AL | | |
| 1010 Bismarck, ND | 0.7984 | 0.8571 |
| Burleigh, ND | | |
| Morton, ND | | |
| 1020 Bloomington, IN | 0.8842 | 0.9192 |
| Monroe, IN | | |
| 1040 Bloomington-Normal, IL | 0.9038 | 0.9331 |
| McLean, IL | | |
| 1080 Boise City, ID | 0.9050 | 0.9339 |
| Ada, ID | | |
| Canyon, ID | | |
| 1123 [1 2] Boston-Worcester-Lawrence-Lowell-Brockton, MA-NH (MA Hospitals) | 1.1454 | 1.0974 |
| Bristol, MA | | |
| Essex, MA | | |
| Middlesex, MA | | |
| Norfolk, MA | | |
| Plymouth, MA | | |
| Suffolk, MA | | |
| Worcester, MA | | |
| Hillsborough, NH | | |
| Merrimack, NH | | |
| Rockingham, NH | | |
| Strafford, NH | | |
| 1123 [1] Boston-Worcester-Lawrence-Lowell-Brockton, MA-NH (NH Hospitals) | 1.1293 | 1.0868 |
| Bristol, MA | | |
| Essex, MA | | |
| Middlesex, MA | | |
| Norfolk, MA | | |
| Plymouth, MA | | |
| Suffolk, MA | | |
| Worcester, MA | | |
| Hillsborough, NH | | |
| Merrimack, NH | | |
| Rockingham, NH | | |
| Strafford, NH | | |
| 1125 Boulder-Longmont, CO | 0.9799 | 0.9862 |
| Boulder, CO | | |
| 1145 Brazoria, TX | 0.8209 | 0.8736 |
| Brazoria, TX | | |
| 1150 Bremerton, WA | 1.0758 | 1.0513 |
| Kitsap, WA | | |
| 1240 Brownsville-Harlingen-San Benito, TX | 0.9012 | 0.9312 |
| Cameron, TX | | |
| 1260 Bryan-College Station, TX | 0.9328 | 0.9535 |
| Brazos, TX | | |
| 1280 [1] Buffalo-Niagara Falls, NY | 0.9459 | 0.9626 |
| Erie, NY | | |
| Niagara, NY | | |
| 1303 Burlington, VT | 0.9883 | 0.9920 |
| Chittenden, VT | | |
| Franklin, VT | | |
| Grand Isle, VT | | |
| 1310 [2] Caguas, PR | 0.4832 | 0.6077 |
| Caguas, PR | | |
| Cayey, PR | | |
| Cidra, PR | | |
| Gurabo, PR | | |
| San Lorenzo, PR | | |
| 1320 Canton-Massillon, OH | 0.8956 | 0.9273 |
| Carroll, OH | | |
| Stark, OH | | |
| 1350 Casper, WY | 0.9496 | 0.9652 |
| Natrona, WY | | |
| 1360 Cedar Rapids, IA | 0.8699 | 0.9090 |
| Linn, IA | | |
| 1400 Champaign-Urbana, IL | 0.9306 | 0.9519 |
| Champaign, IL | | |
| 1440 Charleston-North Charleston, SC | 0.9206 | 0.9449 |
| Berkeley, SC | | |
| Charleston, SC | | |
| Dorchester, SC | | |
| 1480 Charleston, WV | 0.9264 | 0.9490 |
| Kanawha, WV | | |
| Putnam, WV | | |
| 1520 [1] Charlotte-Gastonia-Rock Hill, NC-SC | 0.9407 | 0.9590 |
| Cabarrus, NC | | |
| Gaston, NC | | |
| Lincoln, NC | | |
| Mecklenburg, NC | | |
| Rowan, NC | | |
| Stanly, NC | | |
| Union, NC | | |
| York, SC | | |
| 1540 Charlottesville, VA | 1.0566 | 1.0384 |
| Albemarle, VA | | |
| Charlottesville City, VA | | |
| Fluvanna, VA | | |
| Greene, VA | | |
| 1560 Chattanooga, TN-GA | 0.9369 | 0.9563 |
| Catoosa, GA | | |
| Dade, GA | | |
| Walker, GA | | |
| Hamilton, TN | | |
| Marion, TN | | |
| 1580 [2] Cheyenne, WY | 0.8747 | 0.9124 |
| Laramie, WY | | |
| 1600 [1] Chicago, IL | 1.1046 | 1.0705 |
| Cook, IL | | |
| DeKalb, IL | | |
| DuPage, IL | | |
| Grundy, IL | | |
| Kane, IL | | |
| Kendall, IL | | |
| Lake, IL | | |
| McHenry, IL | | |

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

| Urban Area (Constituent Counties) | Wage Index | GAF |
|---|---|---|
| Will, IL | | |
| 1620 Chico-Paradise, CA | 0.9856 | 0.9901 |
| Butte, CA | | |
| 1640 [1] Cincinnati, OH-KY-IN | 0.9473 | 0.9636 |
| Dearborn, IN | | |
| Ohio, IN | | |
| Boone, KY | | |
| Campbell, KY | | |
| Gallatin, KY | | |
| Grant, KY | | |
| Kenton, KY | | |
| Pendleton, KY | | |
| Brown, OH | | |
| Clermont, OH | | |
| Hamilton, OH | | |
| Warren, OH | | |
| 1660 Clarksville-Hopkinsville, TN-KY | 0.8393 | 0.8869 |
| Christian, KY | | |
| Montgomery, TN | | |
| 1680 [1] Cleveland-Lorain-Elyria, OH | 0.9457 | 0.9625 |
| Ashtabula, OH | | |
| Cuyahoga, OH | | |
| Geauga, OH | | |
| Lake, OH | | |
| Lorain, OH | | |
| Medina, OH | | |
| 1720 Colorado Springs, CO | 0.9744 | 0.9824 |
| El Paso, CO | | |
| 1740 Columbia, MO | 0.8686 | 0.9080 |
| Boone, MO | | |
| 1760 Columbia, SC | 0.9492 | 0.9649 |
| Lexington, SC | | |
| Richland, SC | | |
| 1800 Columbus, GA-AL. | | |
| Russell, AL | 0.8440 | 0.8903 |
| Chattahoochee, GA | | |
| Harris, GA | | |
| Muscogee, GA | | |
| 1840 [1] Columbus, OH | 0.9565 | 0.9700 |
| Delaware, OH | | |
| Fairfield, OH | | |
| Franklin, OH | | |
| Licking, OH | | |
| Madison, OH | | |
| Pickaway, OH | | |
| 1880 Corpus Christi, TX | 0.8341 | 0.8832 |
| Nueces, TX | | |
| San Patricio, TX | | |
| 1890 Corvallis, OR | 1.1646 | 1.1100 |
| Benton, OR | | |
| 1900 [2] Cumberland, MD-WV (MD Hospitals) | 0.8859 | 0.9204 |
| Allegany, MD | | |
| Mineral, WV | | |
| 1900 Cumberland, MD-WV (WV Hospital) | 0.8306 | 0.8806 |
| Allegany, MD | | |
| Mineral, WV | | |
| 1920 [1] Dallas, TX | 0.9936 | 0.9956 |
| Collin, TX | | |
| Dallas, TX | | |
| Denton, TX | | |
| Ellis, TX | | |
| Henderson, TX | | |
| Hunt, TX | | |
| Kaufman, TX | | |
| Rockwall, TX | | |
| 1950 Danville, VA | 0.8613 | 0.9028 |
| Danville City, VA | | |
| Pittsylvania, VA | | |
| 1960 Davenport-Moline-Rock Island, IA-IL | 0.8638 | 0.9046 |
| Scott, IA | | |
| Henry, IL | | |
| Rock Island, IL | | |
| 2000 Dayton-Springfield, OH | 0.9225 | 0.9463 |
| Clark, OH | | |
| Greene, OH | | |
| Miami, OH | | |
| Montgomery, OH | | |
| 2020 Daytona Beach, FL | 0.8972 | 0.9284 |
| Flagler, FL | | |
| Volusia, FL | | |
| 2030 Decatur, AL | 0.8775 | 0.9144 |
| Lawrence, AL | | |
| Morgan, AL | | |
| 2040 [2] Decatur, IL | 0.8053 | 0.8622 |
| Macon, IL | | |
| 2080 [1] Denver, CO | 1.0328 | 1.0223 |
| Adams, CO | | |
| Arapahoe, CO | | |
| Denver, CO | | |
| Douglas, CO | | |
| Jefferson, CO | | |
| 2120 Des Moines, IA | 0.8779 | 0.9147 |
| Dallas, IA | | |
| Polk, IA | | |
| Warren, IA | | |
| 2160 [1] Detroit, MI | 1.0487 | 1.0331 |
| Lapeer, MI | | |
| Macomb, MI | | |
| Monroe, MI | | |
| Oakland, MI | | |
| St. Clair, MI | | |
| Wayne, MI | | |
| 2180 Dothan, AL | 0.7988 | 0.8574 |
| Dale, AL | | |
| Houston, AL | | |
| 2190 Dover, DE | 1.0296 | 1.0202 |
| Kent, DE | | |
| 2200 Dubuque, IA | 0.8519 | 0.8960 |
| Dubuque, IA | | |
| 2240 Duluth-Superior, MN-WI | 1.0284 | 1.0194 |
| St. Louis, MN | | |
| Douglas, WI | | |
| 2281 Dutchess County, NY | 1.0532 | 1.0361 |
| Dutchess, NY | | |
| 2290 [2] Eau Claire, WI | 0.9068 | 0.9352 |
| Chippewa, WI | | |
| Eau Claire, WI | | |
| 2320 El Paso, TX | 0.9215 | 0.9456 |
| El Paso, TX | | |
| 2330 Elkhart-Goshen, IN | 0.9638 | 0.9751 |
| Elkhart, IN | | |
| 2335 [2] Elmira, NY | 0.8547 | 0.8981 |
| Chemung, NY | | |
| 2340 Enid, OK | 0.8357 | 0.8843 |
| Garfield, OK | | |
| 2360 Erie, PA | 0.8716 | 0.9102 |
| Erie, PA | | |
| 2400 Eugene-Springfield, OR | 1.1471 | 1.0985 |
| Lane, OR | | |
| 2440 [2] Evansville-Henderson, IN-KY (IN Hospitals) | 0.8721 | 0.9105 |
| Posey, IN | | |
| Vanderburgh, IN | | |
| Warrick, IN | | |
| Henderson, KY | | |
| 2440 Evansville-Henderson, IN-KY (KY Hospitals) | 0.8514 | 0.8957 |
| Posey, IN | | |
| Vanderburgh, IN | | |
| Warrick, IN | | |
| Henderson, KY | | |
| 2520 Fargo-Moorhead, ND-MN | 0.9267 | 0.9492 |
| Clay, MN | | |
| Cass, ND | | |
| 2560 Fayetteville, NC | 0.9027 | 0.9323 |
| Cumberland, NC | | |
| 2580 Fayetteville-Springdale-Rogers, AR | 0.8445 | 0.8907 |
| Benton, AR | | |
| Washington, AR | | |
| 2620 Flagstaff, AZ-UT | 1.0556 | 1.0377 |
| Coconino, AZ | | |
| Kane, UT | | |
| 2640 Flint, MI | 1.0913 | 1.0617 |
| Genesee, MI | | |
| 2650 Florence, AL | 0.7889 | 0.8501 |
| Colbert, AL | | |
| Lauderdale, AL | | |
| 2655 Florence, SC | 0.8722 | 0.9106 |
| Florence, SC | | |
| 2670 Fort Collins-Loveland, CO | 1.0045 | 1.0031 |
| Larimer, CO | | |
| 2680 [1] Ft. Lauderdale, FL | 1.0784 | 1.0530 |
| Broward, FL | | |
| 2700 Fort Myers-Cape Coral, FL | 0.9374 | 0.9567 |
| Lee, FL | | |
| 2710 Fort Pierce-Port St. Lucie, FL | 1.0214 | 1.0146 |
| Martin, FL | | |
| St. Lucie, FL | | |
| 2720 Fort Smith, AR-OK | 0.8053 | 0.8622 |
| Crawford, AR | | |
| Sebastian, AR | | |
| Sequoyah, OK | | |
| 2750 Fort Walton Beach, FL | 0.9002 | 0.9305 |

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

| Urban Area (Constituent Counties) | Wage Index | GAF |
|---|---|---|
| Okaloosa, FL | | |
| 2760 Fort Wayne, IN .. | 0.9203 | 0.9447 |
| Adams, IN | | |
| Allen, IN | | |
| De Kalb, IN | | |
| Huntington, IN | | |
| Wells, IN | | |
| Whitley, IN | | |
| 2800 [1] Fort Worth-Arlington, TX ..... | 0.9394 | 0.9581 |
| Hood, TX | | |
| Johnson, TX | | |
| Parker, TX | | |
| Tarrant, TX | | |
| 2840 Fresno, CA ..... | 0.9984 | 0.9989 |
| Fresno, CA | | |
| Madera, CA | | |
| 2880 Gadsden, AL ..... | 0.8792 | 0.9156 |
| Etowah, AL | | |
| 2900 Gainesville, FL .. | 0.9481 | 0.9642 |
| Alachua, FL | | |
| 2920 Galveston-Texas City, TX ..... | 1.0313 | 1.0213 |
| Galveston, TX | | |
| 2960 Gary, IN ..... | 0.9530 | 0.9676 |
| Lake, IN | | |
| Porter, IN | | |
| 2975 [2] Glens Falls, NY | 0.8547 | 0.8981 |
| Warren, NY | | |
| Washington, NY | | |
| 2980 Goldsboro, NC .. | 0.8709 | 0.9097 |
| Wayne, NC | | |
| 2985 Grand Forks, ND-MN ..... | 0.9119 | 0.9388 |
| Polk, MN | | |
| Grand Forks, ND | | |
| 2995 Grand Junction, CO ..... | 0.9774 | 0.9845 |
| Mesa, CO | | |
| 3000 [1] Grand Rapids-Muskegon-Holland, MI ..... | 1.0048 | 1.0033 |
| Allegan, MI | | |
| Kent, MI | | |
| Muskegon, MI | | |
| Ottawa, MI | | |
| 3040 Great Falls, MT | 0.9195 | 0.9441 |
| Cascade, MT | | |
| 3060 Greeley, CO ..... | 0.9495 | 0.9651 |
| Weld, CO | | |
| 3080 Green Bay, WI .. | 0.9357 | 0.9555 |
| Brown, WI | | |
| 3120 [1] Greensboro-Winston-Salem-High Point, NC ..... | 0.9539 | 0.9682 |
| Alamance, NC | | |
| Davidson, NC | | |
| Davie, NC | | |
| Forsyth, NC | | |
| Guilford, NC | | |
| Randolph, NC | | |
| Stokes, NC | | |
| Yadkin, NC | | |
| 3150 Greenville, NC ... | 0.9289 | 0.9507 |
| Pitt, NC | | |
| 3160 Greenville-Spartanburg-Anderson, SC ..... | 0.9217 | 0.9457 |
| Anderson, SC | | |
| Cherokee, SC | | |
| Greenville, SC | | |
| Pickens, SC | | |
| Spartanburg, SC | | |
| 3180 [2] Hagerstown, MD ..... | 0.8859 | 0.9204 |
| Washington, MD | | |
| 3200 Hamilton-Middletown, OH ..... | 0.9287 | 0.9506 |
| Butler, OH | | |
| 3240 Harrisburg-Lebanon-Carlisle, PA ..... | 0.9425 | 0.9603 |
| Cumberland, PA | | |
| Dauphin, PA | | |
| Lebanon, PA | | |
| Perry, PA | | |
| 3283 [1 2] Hartford, CT .. | 1.2077 | 1.1380 |
| Hartford, CT | | |
| Litchfield, CT | | |
| Middlesex, CT | | |
| Tolland, CT | | |
| 3285 [2] Hattiesburg, MS ..... | 0.7528 | 0.8233 |
| Forrest, MS | | |
| Lamar, MS | | |
| 3290 Hickory-Morganton-Lenoir, NC ..... | 0.9367 | 0.9562 |
| Alexander, NC | | |
| Burke, NC | | |
| Caldwell, NC | | |
| Catawba, NC | | |
| 3320 Honolulu, HI ..... | 1.1544 | 1.1033 |
| Honolulu, HI | | |
| 3350 Houma, LA ..... | 0.7975 | 0.8565 |
| Lafourche, LA | | |
| Terrebonne, LA | | |
| 3360 [1] Houston, TX .... | 0.9631 | 0.9746 |
| Chambers, TX | | |
| Fort Bend, TX | | |
| Harris, TX | | |
| Liberty, TX | | |
| Montgomery, TX | | |
| Waller, TX | | |
| 3400 Huntington-Ashland, WV-KY-OH ..... | 0.9616 | 0.9735 |
| Boyd, KY | | |
| Carter, KY | | |
| Greenup, KY | | |
| Lawrence, OH | | |
| Cabell, WV | | |
| Wayne, WV | | |
| 3440 Huntsville, AL .... | 0.8883 | 0.9221 |
| Limestone, AL | | |
| Madison, AL | | |
| 3480 [1] Indianapolis, IN | 0.9698 | 0.9792 |
| Boone, IN | | |
| Hamilton, IN | | |
| Hancock, IN | | |
| Hendricks, IN | | |
| Johnson, IN | | |
| Madison, IN | | |
| Marion, IN | | |
| Morgan, IN | | |
| Shelby, IN | | |
| 3500 Iowa City, IA ..... | 0.9859 | 0.9903 |
| Johnson, IA | | |
| 3520 Jackson, MI ..... | 0.9257 | 0.9485 |
| Jackson, MI | | |
| 3560 Jackson, MS ..... | 0.8491 | 0.8940 |
| Hinds, MS | | |
| Madison, MS | | |
| Rankin, MS | | |
| 3580 Jackson, TN ..... | 0.9013 | 0.9313 |
| Madison, TN | | |
| Chester, TN | | |
| 3600 [1] Jacksonville, FL ..... | 0.9223 | 0.9461 |
| Clay, FL | | |
| Duval, FL | | |
| Nassau, FL | | |
| St. Johns, FL | | |
| 3605 [2] Jacksonville, NC ..... | 0.8535 | 0.8972 |
| Onslow, NC | | |
| 3610 [2] Jamestown, NY | 0.8547 | 0.8981 |
| Chautauqua, NY | | |
| 3620 Janesville-Beloit, WI ..... | 0.9739 | 0.9821 |
| Rock, WI | | |
| 3640 Jersey City, NJ .. | 1.1178 | 1.0792 |
| Hudson, NJ | | |
| 3660 Johnson City-Kingsport-Bristol, TN-VA ..... | 0.8617 | 0.9031 |
| Carter, TN | | |
| Hawkins, TN | | |
| Sullivan, TN | | |
| Unicoi, TN | | |
| Washington, TN | | |
| Bristol City, VA | | |
| Scott, VA | | |
| Washington, VA | | |
| 3680 Johnstown, PA .. | 0.8723 | 0.9107 |
| Cambria, PA | | |
| Somerset, PA | | |
| 3700 Jonesboro, AR .. | 0.8425 | 0.8893 |
| Craighead, AR | | |
| 3710 Joplin, MO ..... | 0.8727 | 0.9110 |
| Jasper, MO | | |
| Newton, MO | | |
| 3720 Kalamazoo-Battlecreek, MI ..... | 1.0639 | 1.0433 |
| Calhoun, MI | | |
| Kalamazoo, MI | | |
| Van Buren, MI | | |
| 3740 Kankakee, IL ..... | 0.9889 | 0.9924 |
| Kankakee, IL | | |
| 3760 [1] Kansas City, KS-MO ..... | 0.9536 | 0.9680 |
| Johnson, KS | | |
| Leavenworth, KS | | |
| Miami, KS | | |
| Wyandotte, KS | | |
| Cass, MO | | |
| Clay, MO | | |
| Clinton, MO | | |
| Jackson, MO | | |
| Lafayette, MO | | |
| Platte, MO | | |
| Ray, MO | | |
| 3800 Kenosha, WI ..... | 0.9568 | 0.9702 |
| Kenosha, WI | | |
| 3810 [2] Killeen-Temple, TX ..... | 0.7714 | 0.8372 |

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

| Urban Area (Constituent Counties) | Wage Index | GAF |
|---|---|---|
| Bell, TX | | |
| Coryell, TX | | |
| 3840 Knoxville, TN | 0.8890 | 0.9226 |
| Anderson, TN | | |
| Blount, TN | | |
| Knox, TN | | |
| Loudon, TN | | |
| Sevier, TN | | |
| Union, TN | | |
| 3850 Kokomo, IN | 0.9184 | 0.9434 |
| Howard, IN | | |
| Tipton, IN | | |
| 3870 La Crosse, WI-MN | 0.9250 | 0.9480 |
| Houston, MN | | |
| La Crosse, WI | | |
| 3880 Lafayette, LA | 0.8544 | 0.8978 |
| Acadia, LA | | |
| Lafayette, LA | | |
| St. Landry, LA | | |
| St. Martin, LA | | |
| 3920 Lafayette, IN | 0.9121 | 0.9389 |
| Clinton, IN | | |
| Tippecanoe, IN | | |
| 3960 Lake Charles, LA | 0.7765 | 0.8409 |
| Calcasieu, LA | | |
| 3980 Lakeland-Winter Haven, FL | 0.9067 | 0.9351 |
| Polk, FL | | |
| 4000 Lancaster, PA | 0.9296 | 0.9512 |
| Lancaster, PA | | |
| 4040 Lansing-East Lansing, MI | 0.9653 | 0.9761 |
| Clinton, MI | | |
| Eaton, MI | | |
| Ingham, MI | | |
| 4080 Laredo, TX | 0.7849 | 0.8472 |
| Webb, TX | | |
| 4100 [2] Las Cruces, NM | 0.8676 | 0.9073 |
| Dona Ana, NM | | |
| 4120 [1] Las Vegas, NV-AZ | 1.1182 | 1.0795 |
| Mohave, AZ | | |
| Clark, NV | | |
| Nye, NV | | |
| 4150 Lawrence, KS | 0.7812 | 0.8444 |
| Douglas, KS | | |
| 4200 Lawton, OK | 0.8682 | 0.9078 |
| Comanche, OK | | |
| 4243 Lewiston-Auburn, ME | 0.9287 | 0.9506 |
| Androscoggin, ME | | |
| 4280 Lexington, KY | 0.8791 | 0.9155 |
| Bourbon, KY | | |
| Clark, KY | | |
| Fayette, KY | | |
| Jessamine, KY | | |
| Madison, KY | | |
| Scott, KY | | |
| Woodford, KY | | |
| 4320 Lima, OH | 0.9470 | 0.9634 |
| Allen, OH | | |
| Auglaize, OH | | |
| 4360 Lincoln, NE | 1.0173 | 1.0118 |
| Lancaster, NE | | |
| 4400 Little Rock-North Little Rock, AR | 0.8955 | 0.9272 |
| Faulkner, AR | | |
| Lonoke, AR | | |
| Pulaski, AR | | |
| Saline, AR | | |
| 4420 Longview-Marshall, TX | 0.8571 | 0.8998 |
| Gregg, TX | | |
| Harrison, TX | | |
| Upshur, TX | | |
| 4480 [1] Los Angeles-Long Beach, CA | 1.1961 | 1.1305 |
| Los Angeles, CA | | |
| 4520 [1] Louisville, KY-IN | 0.9529 | 0.9675 |
| Clark, IN | | |
| Floyd, IN | | |
| Harrison, IN | | |
| Scott, IN | | |
| Bullitt, KY | | |
| Jefferson, KY | | |
| Oldham, KY | | |
| 4600 Lubbock, TX | 0.8463 | 0.8920 |
| Lubbock, TX | | |
| 4640 Lynchburg, VA | 0.9103 | 0.9377 |
| Amherst, VA | | |
| Bedford, VA | | |
| Bedford City, VA | | |
| Campbell, VA | | |
| Lynchburg City, VA | | |
| 4680 Macon, GA | 0.8971 | 0.9283 |
| Bibb, GA | | |
| Houston, GA | | |
| Jones, GA | | |
| Peach, GA | | |
| Twiggs, GA | | |
| 4720 Madison, WI | 1.0367 | 1.0250 |
| Dane, WI | | |
| 4800 Mansfield, OH | 0.8726 | 0.9109 |
| Crawford, OH | | |
| Richland, OH | | |
| 4840 Mayaguez, PR | 0.4860 | 0.6101 |
| Anasco, PR | | |
| Cabo Rojo, PR | | |
| Hormigueros, PR | | |
| Mayaguez, PR | | |
| Sabana Grande, PR | | |
| San German, PR | | |
| 4880 McAllen-Edinburg-Mission, TX | 0.8378 | 0.8859 |
| Hidalgo, TX | | |
| 4890 Medford-Ashland, OR | 1.0314 | 1.0214 |
| Jackson, OR | | |
| 4900 Melbourne-Titusville-Palm Bay, FL | 0.9913 | 0.9940 |
| Brevard, Fl | | |
| 4920 [1] Memphis, TN-AR-MS | 0.8978 | 0.9288 |
| Crittenden, AR | | |
| DeSoto, MS | | |
| Fayette, TN | | |
| Shelby, TN | | |
| Tipton, TN | | |
| 4940 Merced, CA | 0.9947 | 0.9964 |
| Merced, CA | | |
| 5000 [1] Miami, FL | 0.9950 | 0.9966 |
| Dade, FL | | |
| 5015 [1] Middlesex-Somerset-Hunterdon, NJ | 1.1469 | 1.0984 |
| Hunterdon, NJ | | |
| Middlesex, NJ | | |
| Somerset, NJ | | |
| 5080 [1] Milwaukee-Waukesha, WI | 0.9971 | 0.9980 |
| Milwaukee, WI | | |
| Ozaukee, WI | | |
| Washington, WI | | |
| Waukesha, WI | | |
| 5120 [1] Minneapolis-St. Paul, MN-WI | 1.0930 | 1.0628 |
| Anoka, MN | | |
| Carver, MN | | |
| Chisago, MN | | |
| Dakota, MN | | |
| Hennepin, MN | | |
| Isanti, MN | | |
| Ramsey, MN | | |
| Scott, MN | | |
| Sherburne, MN | | |
| Washington, MN | | |
| Wright, MN | | |
| Pierce, WI | | |
| St. Croix, WI | | |
| 5140 Missoula, MT | 0.9364 | 0.9560 |
| Missoula, MT | | |
| 5160 Mobile, AL | 0.8084 | 0.8645 |
| Baldwin, AL | | |
| Mobile, AL | | |
| 5170 Modesto, CA | 1.0820 | 1.0555 |
| Stanislaus, CA | | |
| 5190 [1] Monmouth-Ocean, NJ | 1.1257 | 1.0845 |
| Monmouth, NJ | | |
| Ocean, NJ | | |
| 5200 Monroe, LA | 0.8201 | 0.8730 |
| Ouachita, LA | | |
| 5240 [2] Montgomery, AL | 0.7400 | 0.8137 |
| Autauga, AL | | |
| Elmore, AL | | |
| Montgomery, AL | | |
| 5280 Muncie, IN | 0.9939 | 0.9958 |
| Delaware, IN | | |
| 5330 Myrtle Beach, SC | 0.8771 | 0.9141 |
| Horry, SC | | |
| 5345 Naples, FL | 0.9699 | 0.9793 |
| Collier, FL | | |
| 5360 [1] Nashville, TN | 0.9754 | 0.9831 |
| Cheatham, TN | | |
| Davidson, TN | | |
| Dickson, TN | | |
| Robertson, TN | | |
| Rutherford TN | | |
| Sumner, TN | | |
| Williamson, TN | | |
| Wilson, TN | | |
| 5380 [1] Nassau-Suffolk, NY | 1.3643 | 1.2370 |
| Nassau, NY | | |

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

| Urban Area (Constituent Counties) | Wage Index | GAF |
|---|---|---|
| Suffolk, NY | | |
| 5483 [1] New Haven-Bridgeport-Stamford-Waterbury- | 1.2294 | 1.1519 |
| Danbury, CT | | |
| Fairfield, CT | | |
| New Haven, CT | | |
| 5523 [2] New London-Norwich, CT | 1.2077 | 1.1380 |
| New London, CT | | |
| 5560 [1] New Orleans, LA | 0.9036 | 0.9329 |
| Jefferson, LA | | |
| Orleans, LA | | |
| Plaquemines, LA | | |
| St. Bernard, LA | | |
| St. Charles, LA | | |
| St. James, LA | | |
| St. John The Baptist, LA | | |
| St. Tammany, LA | | |
| 5600 [1] New York, NY | 1.4427 | 1.2853 |
| Bronx, NY | | |
| Kings, NY | | |
| New York, NY | | |
| Putnam, NY | | |
| Queens, NY | | |
| Richmond, NY | | |
| Rockland, NY | | |
| Westchester, NY | | |
| 5640 [1] Newark, NJ | 1.1622 | 1.1084 |
| Essex, NJ | | |
| Morris, NJ | | |
| Sussex, NJ | | |
| Union, NJ | | |
| Warren, NJ | | |
| 5660 Newburgh, NY-PA | 1.1113 | 1.0749 |
| Orange, NY | | |
| Pike, PA | | |
| 5720 [1] Norfolk-Virginia Beach-Newport News, VA-NC | 0.8579 | 0.9004 |
| Currituck, NC | | |
| Chesapeake City, VA | | |
| Gloucester, VA | | |
| Hampton City, VA | | |
| Isle of Wight, VA | | |
| James City, VA | | |
| Mathews, VA | | |
| Newport News City, VA | | |
| Norfolk City, VA | | |
| Poquoson City, VA | | |
| Portsmouth City, VA | | |
| Suffolk City, VA | | |
| Virginia Beach City VA | | |
| Williamsburg City, VA | | |
| York, VA | | |
| 5775 [1] Oakland, CA | 1.5319 | 1.3392 |
| Alameda, CA | | |
| Contra Costa, CA | | |
| 5790 Ocala, FL | 0.9556 | 0.9694 |
| Marion, FL | | |
| 5800 Odessa-Midland, TX | 1.0104 | 1.0071 |
| Ector, TX | | |
| Midland, TX | | |
| 5880 [1] Oklahoma City, OK | 0.8694 | 0.9086 |
| Canadian, OK | | |
| Cleveland, OK | | |
| Logan, OK | | |
| McClain, OK | | |
| Oklahoma, OK | | |
| Pottawatomie, OK | | |
| 5910 Olympia, WA | 1.1350 | 1.0906 |
| Thurston, WA | | |
| 5920 Omaha, NE-IA | 0.9712 | 0.9802 |
| Pottawattamie, IA | | |
| Cass, NE | | |
| Douglas, NE | | |
| Sarpy, NE | | |
| Washington, NE | | |
| 5945 [1] Orange County, CA | 1.1246 | 1.0837 |
| Orange, CA | | |
| 5960 [1] Orlando, FL | 0.9642 | 0.9753 |
| Lake, FL | | |
| Orange, FL | | |
| Osceola, FL | | |
| Seminole, FL | | |
| 5990 Owensboro, KY | 0.8334 | 0.8827 |
| Daviess, KY | | |
| 6015 Panama City, FL | 0.9061 | 0.9347 |
| Bay, FL | | |
| 6020 Parkersburg-Marietta, WV-OH (WV Hospitals) | 0.8133 | 0.8680 |
| Washington, OH | | |
| Wood, WV | | |
| 6020 [2] Parkersburg-Marietta, WV-OH (OH Hospitals) | 0.8668 | 0.9067 |
| Washington, OH | | |
| Wood, WV | | |
| 6080 [2] Pensacola, FL | 0.8794 | 0.9158 |
| Escambia, FL | | |
| Santa Rosa, FL | | |
| 6120 Peoria-Pekin, IL | 0.8773 | 0.9143 |
| Peoria, IL | | |
| Tazewell, IL | | |
| Woodford, IL | | |
| 6160 [1] Philadelphia, PA-NJ | 1.0947 | 1.0639 |
| Burlington, NJ | | |
| Camden, NJ | | |
| Gloucester, NJ | | |
| Salem, NJ | | |
| Bucks, PA | | |
| Chester, PA | | |
| Delaware, PA | | |
| Montgomery, PA | | |
| Philadelphia, PA | | |
| 6200 [1] Phoenix-Mesa, AZ | 0.9638 | 0.9751 |
| Maricopa, AZ | | |
| Pinal, AZ | | |
| 6240 Pine Bluff, AR | 0.7895 | 0.8506 |
| Jefferson, AR | | |
| 6280 [1] Pittsburgh, PA | 0.9560 | 0.9697 |
| Allegheny, PA | | |
| Beaver, PA | | |
| Butler, PA | | |
| Fayette, PA | | |
| Washington, PA | | |
| Westmoreland, PA | | |
| 6323 [2] Pittsfield, MA | 1.1454 | 1.0974 |
| Berkshire, MA | | |
| 6340 Pocatello, ID | 0.9448 | 0.9619 |
| Bannock, ID | | |
| 6360 Ponce, PR | 0.5218 | 0.6405 |
| Guayanilla, PR | | |
| Juana Diaz, PR | | |
| Penuelas, PR | | |
| Ponce, PR | | |
| Villalba, PR | | |
| Yauco, PR | | |
| 6403 Portland, ME | 0.9427 | 0.9604 |
| Cumberland, ME | | |
| Sagadahoc, ME | | |
| York, ME | | |
| 6440 [1] Portland-Vancouver, OR-WA | 1.1150 | 1.0774 |
| Clackamas, OR | | |
| Columbia, OR | | |
| Multnomah, OR | | |
| Washington, OR | | |
| Yamhill, OR | | |
| Clark, WA | | |
| 6483 [1] Providence-Warwick-Pawtucket, RI | 1.0805 | 1.0545 |
| Bristol, RI | | |
| Kent, RI | | |
| Newport, RI | | |
| Providence, RI | | |
| Washington, RI | | |
| 6520 Provo-Orem, UT | 0.9843 | 0.9892 |
| Utah, UT | | |
| 6560 [2] Pueblo, CO | 0.8811 | 0.9170 |
| Pueblo, CO | | |
| 6580 Punta Gorda, FL | 0.9015 | 0.9315 |
| Charlotte, FL | | |
| 6600 Racine, WI | 0.9333 | 0.9538 |
| Racine, WI | | |
| 6640 [1] Raleigh-Durham-Chapel Hill, NC | 0.9818 | 0.9875 |
| Chatham, NC | | |
| Durham, NC | | |
| Franklin, NC | | |
| Johnston, NC | | |
| Orange, NC | | |
| Wake, NC | | |
| 6660 Rapid City, SD | 0.8869 | 0.9211 |
| Pennington, SD | | |
| 6680 Reading, PA | 0.9583 | 0.9713 |
| Berks, PA | | |
| 6690 Redding, CA | 1.1155 | 1.0777 |
| Shasta, CA | | |
| 6720 Reno, NV | 1.0421 | 1.0286 |
| Washoe, NV | | |
| 6740 Richland-Kennewick-Pasco, WA | 1.0960 | 1.0648 |
| Benton, WA | | |
| Franklin, WA | | |
| 6760 Richmond-Petersburg, VA | 0.9678 | 0.9778 |

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

| Urban Area (Constituent Counties) | Wage Index | GAF |
|---|---|---|
| Charles City County, VA | | |
| Chesterfield, VA | | |
| Colonial Heights City, VA | | |
| Dinwiddie, VA | | |
| Goochland, VA | | |
| Hanover, VA | | |
| Henrico, VA | | |
| Hopewell City, VA | | |
| New Kent, VA | | |
| Petersburg City, VA | | |
| Powhatan, VA | | |
| Prince George, VA | | |
| Richmond City, VA | | |
| 6780 [1] Riverside-San Bernardino, CA | 1.1112 | 1.0749 |
| Riverside, CA | | |
| San Bernardino, CA | | |
| 6800 Roanoke, VA | 0.8371 | 0.8854 |
| Botetourt, VA | | |
| Roanoke, VA | | |
| Roanoke City, VA | | |
| Salem City, VA | | |
| 6820 Rochester, MN | 1.1462 | 1.0979 |
| Olmsted, MN | | |
| 6840 [1] Rochester, NY | 0.9347 | 0.9548 |
| Genesee, NY | | |
| Livingston, NY | | |
| Monroe, NY | | |
| Ontario, NY | | |
| Orleans, NY | | |
| Wayne, NY | | |
| 6880 Rockford, IL | 0.9204 | 0.9448 |
| Boone, IL | | |
| Ogle, IL | | |
| Winnebago, IL | | |
| 6895 Rocky Mount, NC | 0.9109 | 0.9381 |
| Edgecombe, NC | | |
| Nash, NC | | |
| 6920 [1] Sacramento, CA | 1.1831 | 1.1220 |
| El Dorado, CA | | |
| Placer, CA | | |
| Sacramento, CA | | |
| 6960 Saginaw-Bay City-Midland, MI | 0.9590 | 0.9717 |
| Bay, MI | | |
| Midland, MI | | |
| Saginaw, MI | | |
| 6980 St. Cloud, MN | 0.9919 | 0.9944 |
| Benton, MN | | |
| Stearns, MN | | |
| 7000 St. Joseph, MO | 0.7899 | 0.8509 |
| Andrew, MO | | |
| Buchanan, MO | | |
| 7040 [1] St. Louis, MO-IL | 0.8931 | 0.9255 |
| Clinton, IL | | |
| Jersey, IL | | |
| Madison, IL | | |
| Monroe, IL | | |
| St. Clair, IL | | |
| Franklin, MO | | |
| Jefferson, MO | | |
| Lincoln, MO | | |
| St. Charles, MO | | |
| St. Louis, MO | | |
| St. Louis City, MO | | |
| Warren, MO | | |
| 7080 [2] Salem, OR | 1.0033 | 1.0023 |
| Marion, OR | | |
| Polk, OR | | |
| 7120 Salinas, CA | 1.4684 | 1.3009 |
| Monterey, CA | | |
| 71601Salt Lake City-Ogden, UT | 0.9863 | 0.9906 |
| Davis, UT | | |
| Salt Lake, UT | | |
| Weber, UT | | |
| 7200 San Angelo, TX | 0.8193 | 0.8724 |
| Tom Green, TX | | |
| 7240 [1] San Antonio, TX | 0.8584 | 0.9007 |
| Bexar, TX | | |
| Comal, TX | | |
| Guadalupe, TX | | |
| Wilson, TX | | |
| 7320 [1] San Diego, CA | 1.1265 | 1.0850 |
| San Diego, CA | | |
| 7360 [1] San Francisco, CA | 1.4140 | 1.2677 |
| Marin, CA | | |
| San Francisco, CA | | |
| San Mateo, CA | | |
| 7400 [1] San Jose, CA | 1.4193 | 1.2710 |
| Santa Clara, CA | | |
| 7440 [1 2] San Juan-Bayamon, PR | 0.4832 | 0.6077 |
| Aguas Buenas, PR | | |
| Barceloneta, PR | | |
| Bayamon, PR | | |
| Canovanas, PR | | |
| Carolina, PR | | |
| Catano, PR | | |
| Ceiba, PR | | |
| Comerio, PR | | |
| Corozal, PR | | |
| Dorado, PR | | |
| Fajardo, PR | | |
| Florida, PR | | |
| Guaynabo, PR | | |
| Humacao, PR | | |
| Juncos, PR | | |
| Los Piedras, PR | | |
| Loiza, PR | | |
| Luguillo, PR | | |
| Manati, PR | | |
| Morovis, PR | | |
| Naguabo, PR | | |
| Naranjito, PR | | |
| Rio Grande, PR | | |
| San Juan, PR | | |
| Toa Alta, PR | | |
| Toa Baja, PR | | |
| Trujillo Alto, PR | | |
| Vega Alta, PR | | |
| Vega Baja, PR | | |
| Yabucoa, PR | | |
| 7460 San Luis Obispo-Atascadero-Paso Robles, CA | 1.0990 | 1.0668 |
| San Luis Obispo, CA | | |
| 7480 Santa Barbara-Santa Maria-Lompoc, CA | 1.0802 | 1.0543 |
| Santa Barbara, CA | | |
| 7485 Santa Cruz-Watsonville, CA | 1.3970 | 1.2573 |
| Santa Cruz, CA | | |
| 7490 Santa Fe, NM | 1.0194 | 1.0132 |
| Los Alamos, NM | | |
| Santa Fe, NM | | |
| 7500 Santa Rosa, CA | 1.3034 | 1.1990 |
| Sonoma, CA | | |
| 7510 Sarasota-Bradenton, FL | 1.0090 | 1.0062 |
| Manatee, FL | | |
| Sarasota, FL | | |
| 7520 Savannah, GA | 0.9243 | 0.9475 |
| Bryan, GA | | |
| Chatham, GA | | |
| Effingham, GA | | |
| 7560 Scranton--Wilkes-Barre--Hazleton, PA | 0.8683 | 0.9078 |
| Columbia, PA | | |
| Lackawanna, PA | | |
| Luzerne, PA | | |
| Wyoming, PA | | |
| 7600 [1] Seattle-Bellevue-Everett, WA | 1.1361 | 1.0913 |
| Island, WA | | |
| King, WA | | |
| Snohomish, WA | | |
| 7610 [2] Sharon, PA | 0.8607 | 0.9024 |
| Mercer, PA | | |
| 7620 [2] Sheboygan, WI | 0.9068 | 0.9352 |
| Sheboygan, WI | | |
| 7640 Sherman-Denison, TX | 0.9373 | 0.9566 |
| Grayson, TX | | |
| 7680 Shreveport-Bossier City, LA | 0.9050 | 0.9339 |
| Bossier, LA | | |
| Caddo, LA | | |
| Webster, LA | | |
| 7720 Sioux City, IA-NE | 0.8767 | 0.9138 |
| Woodbury, IA | | |
| Dakota, NE | | |
| 7760 Sioux Falls, SD | 0.9139 | 0.9402 |
| Lincoln, SD | | |
| Minnehaha, SD | | |
| 7800 South Bend, IN | 0.9993 | 0.9995 |
| St. Joseph, IN | | |
| 7840 Spokane, WA | 1.0668 | 1.0453 |
| Spokane, WA | | |
| 7880 Springfield, IL | 0.8676 | 0.9073 |
| Menard, IL | | |
| Sangamon, IL | | |
| 7920 Springfield, MO | 0.8567 | 0.8995 |
| Christian, MO | | |
| Greene, MO | | |
| Webster, MO | | |
| 8003 [2] Springfield, MA | 1.1454 | 1.0974 |
| Hampden, MA | | |
| Hampshire, MA | | |
| 8050 State College, PA | 0.9133 | 0.9398 |

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

| Urban Area (Constituent Counties) | Wage Index | GAF |
|---|---|---|
| Centre, PA | | |
| 8080 [2] Steubenville-Weirton, OH-WV (OH Hospitals) | 0.8668 | 0.9067 |
| Jefferson, OH | | |
| Brooke, WV | | |
| Hancock, WV | | |
| 8080 Steubenville-Weirton, OH-WV (WV Hospitals) | 0.8637 | 0.9045 |
| Jefferson, OH | | |
| Brooke, WV | | |
| Hancock, WV | | |
| 8120 Stockton-Lodi, CA | 1.0988 | 1.0666 |
| San Joaquin, CA | | |
| 8140 [2] Sumter, SC | 0.8512 | 0.8955 |
| Sumter, SC | | |
| 8160 Syracuse, NY | 0.9621 | 0.9739 |
| Cayuga, NY | | |
| Madison, NY | | |
| Onondaga, NY | | |
| Oswego, NY | | |
| 8200 Tacoma, WA | 1.1616 | 1.1080 |
| Pierce, WA | | |
| 8240 [2] Tallahassee, FL | 0.8794 | 0.9158 |
| Gadsden, FL | | |
| Leon, FL | | |
| 8280 [1] Tampa-St. Petersburg-Clearwater, FL | 0.8925 | 0.9251 |
| Hernando, FL | | |
| Hillsborough, FL | | |
| Pasco, FL | | |
| Pinellas, FL | | |
| 8320 [2] Terre Haute, IN | 0.8721 | 0.9105 |
| Clay, IN | | |
| Vermillion, IN | | |
| Vigo, IN | | |
| 8360 Texarkana,AR-Texarkana, TX | 0.8327 | 0.8822 |
| Miller, AR | | |
| Bowie, TX | | |
| 8400 Toledo, OH | 0.9809 | 0.9869 |
| Fulton, OH | | |
| Lucas, OH | | |
| Wood, OH | | |
| 8440 Topeka, KS | 0.8912 | 0.9242 |
| Shawnee, KS | | |
| 8480 Trenton, NJ | 1.0416 | 1.0283 |
| Mercer, NJ | | |
| 8520 Tucson, AZ | 0.8976 | 0.9287 |
| Pima, AZ | | |
| 8560 Tulsa, OK | 0.8902 | 0.9234 |
| Creek, OK | | |
| Osage, OK | | |
| Rogers, OK | | |
| Tulsa, OK | | |
| Wagoner, OK | | |
| 8600 Tuscaloosa, AL | 0.8171 | 0.8708 |
| Tuscaloosa, AL | | |
| 8640 Tyler, TX | 0.9641 | 0.9753 |
| Smith, TX | | |
| 8680 [2] Utica-Rome, NY | 0.8547 | 0.8981 |
| Herkimer, NY | | |
| Oneida, NY | | |
| 8720 Vallejo-Fairfield-Napa, CA | 1.3562 | 1.2320 |
| Napa, CA | | |
| Solano, CA | | |
| 8735 Ventura, CA | 1.0994 | 1.0670 |
| Ventura, CA | | |
| 8750 Victoria, TX | 0.8328 | 0.8822 |
| Victoria, TX | | |
| 8760 Vineland-Millville-Bridgeton, NJ | 1.0441 | 1.0300 |
| Cumberland, NJ | | |
| 8780 [2] Visalia-Tulare-Porterville, CA | 0.9659 | 0.9765 |
| Tulare, CA | | |
| 8800 Waco, TX | 0.8150 | 0.8693 |
| McLennan, TX | | |
| 8840 [1] Washington, DC-MD-VA-WV | 1.0962 | 1.0649 |
| District of Columbia, DC | | |
| Calvert, MD | | |
| Charles, MD | | |
| Frederick, MD | | |
| Montgomery, MD | | |
| Prince Georges, MD | | |
| Alexandria City, VA | | |
| Arlington, VA | | |
| Clarke, VA | | |
| Culpeper, VA | | |
| Fairfax, VA | | |
| Fairfax City, VA | | |
| Falls Church City, VA | | |
| Fauquier, VA | | |
| Fredericksburg City, VA | | |
| King George, VA | | |
| Loudoun, VA | | |
| Manassas City, VA | | |
| Manassas Park City, VA | | |
| Prince William, VA | | |
| Spotsylvania, VA | | |
| Stafford, VA | | |
| Warren, VA | | |
| Berkeley, WV | | |
| Jefferson, WV | | |
| 8920 Waterloo-Cedar Falls, IA | 0.8677 | 0.9074 |
| Black Hawk, IA | | |
| 8940 Wausau, WI | 0.9696 | 0.9791 |
| Marathon, WI | | |
| 8960 [1] West Palm Beach-Boca Raton, FL | 0.9777 | 0.9847 |
| Palm Beach, FL | | |
| 9000 [2] Wheeling, WV-OH (WV Hospitals) | 0.8067 | 0.8632 |
| Belmont, OH | | |
| Marshall, WV | | |
| Ohio, WV | | |
| 9000 [2] Wheeling, WV-OH (OH Hospitals) | 0.8668 | 0.9067 |
| Belmont, OH | | |
| Marshall, WV | | |
| Ohio, WV | | |
| 9040 Wichita, KS | 0.9606 | 0.9728 |
| Butler, KS | | |
| Harvey, KS | | |
| Sedgwick, KS | | |
| 9080 Wichita Falls, TX | 0.7946 | 0.8543 |
| Archer, TX | | |
| Wichita, TX | | |
| 9140 Williamsport, PA | 0.8628 | 0.9039 |
| Lycoming, PA | | |
| 9160 Wilmington-Newark, DE-MD | 1.0877 | 1.0593 |
| New Castle, DE | | |
| Cecil, MD | | |
| 9200 Wilmington, NC | 0.9409 | 0.9591 |
| New Hanover, NC | | |
| Brunswick, NC | | |
| 9260 Yakima, WA | 1.0567 | 1.0385 |
| Yakima, WA | | |
| 9270 Yolo, CA | 0.9701 | 0.9794 |
| Yolo, CA | | |
| 9280 York, PA | 0.9441 | 0.9614 |
| York, PA | | |
| 9320 Youngstown-Warren, OH | 0.9563 | 0.9699 |
| Columbiana, OH | | |
| Mahoning, OH | | |
| Trumbull, OH | | |
| 9340 Yuba City, CA | 1.0359 | 1.0244 |
| Sutter, CA | | |
| Yuba, CA | | |
| 9360 Yuma, AZ | 0.8989 | 0.9296 |
| Yuma, AZ | | |

[1] Large Urban Area
[2] Hospitals geographically located in the area are assigned the statewide rural wage index for FY 2002.

TABLE 4B.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR RURAL AREAS

| Nonurban Area | Wage Index | GAF |
|---|---|---|
| Alabama | 0.7400 | 0.8137 |
| Alaska | 1.1862 | 1.1240 |
| Arizona | 0.8681 | 0.9077 |
| Arkansas | 0.7489 | 0.8204 |
| California | 0.9659 | 0.9765 |
| Colorado | 0.8811 | 0.9170 |
| Connecticut | 1.2077 | 1.1380 |
| Delaware | 0.9589 | 0.9717 |
| Florida | 0.8794 | 0.9158 |
| Georgia | 0.8295 | 0.8798 |
| Hawaii | 1.1112 | 1.0749 |
| Idaho | 0.8718 | 0.9103 |
| Illinois | 0.8053 | 0.8622 |
| Indiana | 0.8721 | 0.9105 |
| Iowa | 0.8147 | 0.8691 |
| Kansas | 0.7812 | 0.8444 |
| Kentucky | 0.7963 | 0.8556 |
| Louisiana | 0.7692 | 0.8355 |
| Maine | 0.8721 | 0.9105 |
| Maryland | 0.8859 | 0.9204 |
| Massachusetts | 1.1454 | 1.0974 |
| Michigan | 0.9000 | 0.9304 |

TABLE 4B.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR RURAL AREAS—Continued

| Nonurban Area | Wage Index | GAF |
|---|---|---|
| Minnesota | 0.9035 | 0.9329 |
| Mississippi | 0.7528 | 0.8233 |
| Missouri | 0.7899 | 0.8509 |
| Montana | 0.8655 | 0.9058 |
| Nebraska | 0.8142 | 0.8687 |
| Nevada | 0.9727 | 0.9812 |
| New Hampshire | 0.9779 | 0.9848 |
| New Jersey [1] | ..... | ..... |
| New Mexico | 0.8676 | 0.9073 |
| New York | 0.8547 | 0.8981 |
| North Carolina | 0.8535 | 0.8972 |
| North Dakota | 0.7879 | 0.8494 |
| Ohio | 0.8668 | 0.9067 |
| Oklahoma | 0.7566 | 0.8261 |
| Oregon | 1.0038 | 1.0026 |
| Pennsylvania | 0.8607 | 0.9024 |
| Puerto Rico | 0.4832 | 0.6077 |
| Rhode Island [1] | ..... | ..... |
| South Carolina | 0.8512 | 0.8955 |
| South Dakota | 0.7861 | 0.8481 |
| Tennessee | 0.7928 | 0.8530 |
| Texas | 0.7714 | 0.8372 |
| Utah | 0.9051 | 0.9340 |
| Vermont | 0.9608 | 0.9730 |
| Virginia | 0.8241 | 0.8759 |
| Washington | 1.0209 | 1.0143 |
| West Virginia | 0.8067 | 0.8632 |
| Wisconsin | 0.9068 | 0.9352 |
| Wyoming | 0.8747 | 0.9124 |

[1] All counties within the State are classified as urban.

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED

| Area | Wage Index | GAF |
|---|---|---|
| Abilene, TX | 0.7983 | 0.8570 |
| Akron, OH | 0.9876 | 0.9915 |
| Albany, GA | 1.0640 | 1.0434 |
| Albuquerque, NM | 0.9750 | 0.9828 |
| Alexandria, LA | 0.8059 | 0.8626 |
| Allentown-Bethlehem-Easton, PA | 1.0077 | 1.0053 |
| Altoona, PA | 0.9126 | 0.9393 |
| Amarillo, TX | 0.8502 | 0.8948 |
| Anchorage, AK | 1.2696 | 1.1776 |
| Ann Arbor, MI | 1.1098 | 1.0739 |
| Anniston, AL | 0.7841 | 0.8466 |
| Asheville, NC | 0.9200 | 0.9445 |
| Athens, GA | 0.9706 | 0.9798 |
| Atlanta, GA | 1.0058 | 1.0040 |
| Augusta-Aiken, GA-SC | 0.9970 | 0.9979 |
| Austin-San Marcos, TX | 0.9597 | 0.9722 |
| Barnstable-Yarmouth, MA | 1.3423 | 1.2234 |
| Baton Rouge, LA | 0.8149 | 0.8692 |
| Bellingham, WA | 1.1296 | 1.0870 |
| Benton Harbor, MI | 0.9000 | 0.9304 |
| Bergen-Passaic, NJ | 1.1808 | 1.1205 |
| Billings, MT | 0.9352 | 0.9552 |
| Biloxi-Gulfport-Pascagoula, MS | 0.8105 | 0.8660 |

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED—Continued

| Area | Wage Index | GAF |
|---|---|---|
| Binghamton, NY | 0.8607 | 0.9024 |
| Birmingham, AL | 0.8808 | 0.9168 |
| Bismarck, ND | 0.7984 | 0.8571 |
| Boston-Worcester-Lawrence-Lowell-Brockton, MA-NH | 1.1293 | 1.0868 |
| Burlington, VT (VT Hospitals) | 0.9608 | 0.9730 |
| Burlington, VT (NY Hospitals) | 0.9606 | 0.9728 |
| Caguas, PR | 0.4832 | 0.6077 |
| Casper, WY | 0.9346 | 0.9547 |
| Champaign-Urbana, IL | 0.9140 | 0.9403 |
| Charleston-North Charleston, SC | 0.9206 | 0.9449 |
| Charleston, WV | 0.8902 | 0.9234 |
| Charlotte-Gastonia-Rock Hill, NC-SC | 0.9407 | 0.9590 |
| Chattanooga, TN-GA | 0.9181 | 0.9432 |
| Chicago, IL | 1.0917 | 1.0619 |
| Cincinnati, OH-KY-IN | 0.9473 | 0.9636 |
| Clarksville-Hopkinsville, TN-KY | 0.8393 | 0.8869 |
| Cleveland-Lorain-Elyria, OH | 0.9457 | 0.9625 |
| Columbia, MO | 0.8686 | 0.9080 |
| Columbia, SC | 0.9168 | 0.9422 |
| Columbus, GA-AL | 0.8440 | 0.8903 |
| Columbus, OH | 0.9565 | 0.9700 |
| Corpus Christi, TX | 0.8238 | 0.8757 |
| Dallas, TX | 0.9936 | 0.9956 |
| Davenport-Moline-Rock Island, IA-IL | 0.8538 | 0.8974 |
| Dayton-Springfield, OH | 0.9225 | 0.9463 |
| Denver, CO | 1.0328 | 1.0223 |
| Des Moines, IA | 0.8779 | 0.9147 |
| Dothan, AL | 0.7988 | 0.8574 |
| Dover, DE | 1.0003 | 1.0002 |
| Duluth-Superior, MN-WI | 1.0284 | 1.0194 |
| Eau Claire, WI | 0.9068 | 0.9352 |
| Elkhart-Goshen, IN | 0.9517 | 0.9667 |
| Erie, PA | 0.8716 | 0.9102 |
| Eugene-Springfield, OR | 1.1006 | 1.0678 |
| Fargo-Moorhead, ND-MN | 0.9166 | 0.9421 |
| Fayetteville, NC | 0.8869 | 0.9211 |
| Flagstaff, AZ-UT | 1.0105 | 1.0072 |
| Flint, MI | 1.0810 | 1.0548 |
| Florence, AL | 0.7889 | 0.8501 |
| Florence, SC | 0.8722 | 0.9106 |
| Fort Collins-Loveland, CO | 1.0045 | 1.0031 |
| Ft. Lauderdale, FL | 1.0784 | 1.0530 |
| Fort Pierce-Port St. Lucie, FL | 1.0114 | 1.0078 |
| Fort Smith, AR-OK | 0.7857 | 0.8478 |
| Fort Walton Beach, FL | 0.8828 | 0.9182 |
| Fort Wayne, IN | 0.9203 | 0.9447 |
| Forth Worth-Arlington, TX | 0.9394 | 0.9581 |
| Gadsden, AL | 0.8386 | 0.8864 |
| Gainesville, FL | 0.9481 | 0.9642 |
| Grand Forks, ND-MN | 0.9119 | 0.9388 |
| Grand Junction, CO | 0.9774 | 0.9845 |
| Grand Rapids-Muskegon-Holland, MI | 0.9939 | 0.9958 |

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED—Continued

| Area | Wage Index | GAF |
|---|---|---|
| Great Falls, MT | 0.9195 | 0.9441 |
| Greeley, CO | 0.9495 | 0.9651 |
| Green Bay, WI | 0.9357 | 0.9555 |
| Greensboro-Winston-Salem-High Point, NC | 0.9395 | 0.9582 |
| Greenville, NC | 0.9289 | 0.9507 |
| Greenville-Spartanburg-Anderson, SC | 0.9217 | 0.9457 |
| Harrisburg-Lebanon-Carlisle, PA | 0.9425 | 0.9603 |
| Hartford, CT | 1.1571 | 1.1051 |
| Hattiesburg, MS | 0.7528 | 0.8233 |
| Hickory-Morganton-Lenoir, NC | 0.9367 | 0.9562 |
| Honolulu, HI | 1.1544 | 1.1033 |
| Houston, TX | 0.9631 | 0.9746 |
| Huntington-Ashland, WV-KY-OH | 0.9238 | 0.9472 |
| Huntsville, AL | 0.8696 | 0.9088 |
| Indianapolis, IN | 0.9698 | 0.9792 |
| Iowa City, IA | 0.9708 | 0.9799 |
| Jackson, MS | 0.8491 | 0.8940 |
| Jackson, TN | 0.8843 | 0.9192 |
| Jacksonville, FL | 0.9223 | 0.9461 |
| Johnson City-Kingsport-Bristol, TN-VA | 0.8617 | 0.9031 |
| Jonesboro, AR | 0.8115 | 0.8667 |
| Joplin, MO | 0.8528 | 0.8967 |
| Kalamazoo-Battlecreek, MI | 1.0471 | 1.0320 |
| Kansas City, KS-MO | 0.9536 | 0.9680 |
| Knoxville, TN | 0.8890 | 0.9226 |
| Kokomo, IN | 0.9184 | 0.9434 |
| Lafayette, LA | 0.8395 | 0.8871 |
| Lansing-East Lansing, MI | 0.9653 | 0.9761 |
| Las Vegas, NV-AZ | 1.1182 | 1.0795 |
| Lawton, OK | 0.8281 | 0.8788 |
| Lexington, KY | 0.8641 | 0.9048 |
| Lima, OH | 0.9470 | 0.9634 |
| Lincoln, NE | 0.9843 | 0.9892 |
| Little Rock-North Little Rock, AR | 0.8800 | 0.9162 |
| Longview-Marshall, TX | 0.8571 | 0.8998 |
| Los Angeles-Long Beach, CA | 1.1961 | 1.1305 |
| Louisville, KY-IN | 0.9416 | 0.9596 |
| Lubbock, TX | 0.8463 | 0.8920 |
| Lynchburg, VA | 0.8795 | 0.9158 |
| Macon, GA | 0.8971 | 0.9283 |
| Madison, WI | 1.0367 | 1.0250 |
| Mansfield, OH | 0.8726 | 0.9109 |
| Medford-Ashland, OR | 1.0033 | 1.0023 |
| Memphis, TN-AR-MS | 0.8793 | 0.9157 |
| Miami, FL | 0.9950 | 0.9966 |
| Milwaukee-Waukesha, WI | 0.9865 | 0.9907 |
| Minneapolis-St. Paul, MN-WI | 1.0930 | 1.0628 |
| Missoula, MT | 0.9177 | 0.9429 |
| Mobile, AL | 0.8084 | 0.8645 |
| Modesto, CA | 1.0820 | 1.0555 |
| Monmouth-Ocean, NJ | 1.1257 | 1.0845 |
| Monroe, LA | 0.8097 | 0.8654 |
| Montgomery, AL | 0.7400 | 0.8137 |
| Myrtle Beach, SC | 0.8577 | 0.9002 |

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED—Continued

| Area | Wage Index | GAF |
|---|---|---|
| Nashville, TN | 0.9552 | 0.9691 |
| New Haven-Bridgeport-Stamford-Waterbury-Danbury, CT | 1.2294 | 1.1519 |
| New London-Norwich, CT | 1.1526 | 1.1021 |
| New Orleans, LA | 0.9036 | 0.9329 |
| New York, NY | 1.4287 | 1.2767 |
| Newark, NJ | 1.1622 | 1.1084 |
| Newburgh, NY-PA | 1.0797 | 1.0539 |
| Oakland, CA | 1.5319 | 1.3392 |
| Odessa-Midland, TX | 0.9495 | 0.9651 |
| Oklahoma City, OK | 0.8694 | 0.9086 |
| Omaha, NE-IA | 0.9712 | 0.9802 |
| Orange County, CA | 1.1246 | 1.0837 |
| Orlando, FL | 0.9642 | 0.9753 |
| Peoria-Pekin, IL | 0.8773 | 0.9143 |
| Philadelphia, PA-NJ | 1.0947 | 1.0639 |
| Pine Bluff, AR | 0.7895 | 0.8506 |
| Pittsburgh, PA | 0.9419 | 0.9598 |
| Pittsfield, MA | 0.9904 | 0.9934 |
| Pocatello, ID | 0.9159 | 0.9416 |
| Portland, ME | 0.9427 | 0.9604 |
| Portland-Vancouver, OR-WA | 1.1150 | 1.0774 |
| Provo-Orem, UT | 0.9843 | 0.9892 |
| Raleigh-Durham-Chapel Hill, NC | 0.9818 | 0.9875 |
| Rapid City, SD | 0.8869 | 0.9211 |
| Reading, PA | 0.9216 | 0.9456 |
| Redding, CA | 1.1155 | 1.0777 |
| Reno, NV | 1.0421 | 1.0286 |
| Richland-Kennewick-Pasco, WA | 1.0356 | 1.0242 |
| Richmond-Petersburg, VA | 0.9678 | 0.9778 |
| Roanoke, VA | 0.8371 | 0.8854 |
| Rochester, MN | 1.1462 | 1.0979 |
| Rockford, IL | 0.9042 | 0.9334 |
| Sacramento, CA | 1.1831 | 1.1220 |
| Saginaw-Bay City-Midland, MI | 0.9590 | 0.9717 |
| St. Cloud, MN | 0.9919 | 0.9944 |
| St. Joseph, MO | 0.8121 | 0.8672 |
| St. Louis, MO-IL | 0.8931 | 0.9255 |
| Salinas, CA | 1.4570 | 1.2940 |
| Salt Lake City-Ogden, UT | 0.9863 | 0.9906 |
| San Diego, CA | 1.1265 | 1.0850 |
| Santa Fe, NM | 0.9765 | 0.9838 |
| Santa Rosa, CA | 1.2631 | 1.1734 |
| Sarasota-Bradenton, FL | 1.0090 | 1.0062 |
| Savannah, GA | 0.9243 | 0.9475 |
| Seattle-Bellevue-Everett, WA | 1.1361 | 1.0913 |
| Sherman-Denison, TX | 0.9003 | 0.9306 |
| Shreveport-Bossier City, LA | 0.9050 | 0.9339 |
| Sioux City, IA-NE | 0.8767 | 0.9138 |
| Sioux Falls, SD | 0.8939 | 0.9261 |
| South Bend, IN | 0.9993 | 0.9995 |
| Spokane, WA | 1.0668 | 1.0453 |
| Springfield, IL | 0.8571 | 0.8998 |
| Springfield, MO | 0.8357 | 0.8843 |
| Stockton-Lodi, CA | 1.0988 | 1.0666 |
| Syracuse, NY | 0.9621 | 0.9739 |
| Tampa-St. Petersburg-Clearwater, FL | 0.8925 | 0.9251 |
| Texarkana,AR-Texarkana, TX | 0.8327 | 0.8822 |
| Toledo, OH | 0.9809 | 0.9869 |
| Topeka, KS | 0.8749 | 0.9125 |
| Tucson, AZ | 0.8976 | 0.9287 |
| Tulsa, OK | 0.8760 | 0.9133 |
| Tuscaloosa, AL | 0.8171 | 0.8708 |
| Tyler, TX | 0.9359 | 0.9556 |
| Victoria, TX | 0.8328 | 0.8822 |
| Waco, TX | 0.8150 | 0.8693 |
| Washington, DC-MD-VA-WV | 1.0854 | 1.0577 |
| Waterloo-Cedar Falls, IA | 0.8677 | 0.9074 |
| Wausau, WI | 0.9558 | 0.9695 |
| West Palm Beach-Boca Raton, FL | 0.9777 | 0.9847 |
| Wichita, KS | 0.9237 | 0.9471 |
| Wichita Falls, TX | 0.7946 | 0.8543 |
| Wilmington-Newark, DE-MD | 1.0877 | 1.0593 |
| Rural Alabama | 0.7528 | 0.8233 |
| Rural Florida | 0.8794 | 0.9158 |
| Rural Illinois (IA Hospitals) | 0.8147 | 0.8691 |
| Rural Illinois (MO Hospitals) | 0.8053 | 0.8622 |
| Rural Kentucky | 0.7963 | 0.8556 |
| Rural Louisiana | 0.7692 | 0.8355 |
| Rural Minnesota | 0.9035 | 0.9329 |
| Rural Missouri | 0.7899 | 0.8509 |
| Rural Montana | 0.8655 | 0.9058 |
| Rural Nebraska | 0.8142 | 0.8687 |
| Rural Nevada | 0.9161 | 0.9418 |
| Rural Oregon | 1.0038 | 1.0026 |
| Rural Texas | 0.7714 | 0.8372 |
| Rural Washington | 1.0209 | 1.0143 |
| Rural Wisconsin | 0.9068 | 0.9352 |
| Rural Wyoming | 0.8747 | 0.9124 |

TABLE 4F.—PUERTO RICO WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF)

| Area | Wage Index | GAF | Wage Index—Reclass. Hospitals | GAF—Reclass. Hospitals |
|---|---|---|---|---|
| [1] Aguadilla, PR | 1.0025 | 1.0017 | ..... | ..... |
| [1] Arecibo, PR | 1.0025 | 1.0017 | ..... | ..... |
| [1] Caguas, PR | 1.0025 | 1.0017 | 1.0025 | 1.0017 |
| Mayaguez, PR | 1.0084 | 1.0057 | ..... | ..... |
| Ponce, PR | 1.0825 | 1.0558 | ..... | ..... |
| [1] San Juan-Bayamon, PR | 1.0025 | 1.0017 | ..... | ..... |
| Rural Puerto Rico | 1.0025 | 1.0017 | ..... | ..... |

[1] Hospitals geographically located in the area are assigned the Rural Puerto Rico wage index for FY 2002.

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS

| Urban Area (Constituent Counties) | Wage Index |
|---|---|
| 0040 Abilene, TX | 0.7965 |
| Taylor, TX | |
| 0060 Aguadilla, PR | 0.4683 |
| Aguada, PR | |
| Aguadilla, PR | |
| Moca, PR | |
| 0080 Akron, OH | 0.9876 |
| Portage, OH | |
| Summit, OH | |
| 0120 Albany, GA | 1.0640 |
| Dougherty, GA | |
| Lee, GA | |
| 0160 Albany-Schenectady-Troy, NY | 0.8500 |
| Albany, NY | |
| Montgomery, NY | |
| Rensselaer, NY | |
| Saratoga, NY | |

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

| Urban Area (Constituent Counties) | Wage Index |
|---|---|
| Schenectady, NY | |
| Schoharie, NY | |
| 0200 Albuquerque, NM | 0.9750 |
| Bernalillo, NM | |
| Sandoval, NM | |
| Valencia, NM | |
| 0220 Alexandria, LA | 0.8029 |
| Rapides, LA | |
| 0240 Allentown-Bethlehem-Easton, PA | 1.0077 |
| Carbon, PA | |
| Lehigh, PA | |
| Northampton, PA | |
| 0280 Altoona, PA | 0.9126 |
| Blair, PA | |
| 0320 Amarillo, TX – | 0.8711 |
| Potter, TX | |
| Randall, TX | |
| 0380 Anchorage, AK | 1.2570 |
| Anchorage, AK | |
| 0440 Ann Arbor, MI | 1.1098 |
| Lenawee, MI | |
| Livingston, MI | |
| Washtenaw, MI | |
| 0450 Anniston, AL | 0.8276 |
| Calhoun, AL | |
| 0460 Appleton-Oshkosh-Neenah, WI | 0.9241 |
| Calumet, WI | |
| Outagamie, WI | |
| Winnebago, WI | |
| 0470 Arecibo, PR | 0.4630 |
| Arecibo, PR | |
| Camuy, PR | |
| Hatillo, PR | |
| 0480 Asheville, NC | 0.9200 |
| Buncombe, NC | |
| Madison, NC | |
| 0500 Athens, GA | 0.9842 |
| Clarke, GA | |
| Madison, GA | |
| Oconee, GA | |
| 0520 Atlanta, GA | 1.0058 |
| Barrow, GA | |
| Bartow, GA | |
| Carroll, GA | |
| Cherokee, GA | |
| Clayton, GA | |
| Cobb, GA | |
| Coweta, GA | |
| DeKalb, GA | |
| Douglas, GA | |
| Fayette, GA | |
| Forsyth, GA | |
| Fulton, GA | |
| Gwinnett, GA | |
| Henry, GA | |
| Newton, GA | |
| Paulding, GA | |
| Pickens, GA | |
| Rockdale, GA | |
| Spalding, GA | |
| Walton, GA | |
| 0560 Atlantic-Cape May, NJ | 1.1293 |
| Atlantic, NJ | |
| Cape May, NJ | |
| 0580 Auburn-Opelika, AL | 0.8230 |
| Lee, AL | |
| 0600 Augusta-Aiken, GA-SC | 0.9970 |
| Columbia, GA | |
| McDuffie, GA | |
| Richmond, GA | |
| Aiken, SC | |
| Edgefield, SC | |
| 0640 Austin-San Marcos, TX | 0.9597 |
| Bastrop, TX | |
| Caldwell, TX | |
| Hays, TX | |
| Travis, TX | |
| Williamson, TX | |
| 0680 Bakersfield, CA | 0.9470 |
| Kern, CA | |
| 0720 Baltimore, MD | 0.9856 |
| Anne Arundel, MD | |
| Baltimore, MD | |
| Baltimore City, MD | |
| Carroll, MD | |
| Harford, MD | |
| Howard, MD | |
| Queen Anne's, MD | |
| 0733 Bangor, ME | 0.9593 |
| Penobscot, ME | |
| 0743 Barnstable-Yarmouth, MA | 1.3626 |
| Barnstable, MA | |
| 0760 Baton Rouge, LA | 0.8149 |
| Ascension, LA | |
| East Baton Rouge, LA | |
| Livingston, LA | |
| West Baton Rouge, LA | |
| 0840 Beaumont-Port Arthur, TX | 0.8442 |
| Hardin, TX | |
| Jefferson, TX | |
| Orange, TX | |
| 0860 Bellingham, WA | 1.1826 |
| Whatcom, WA | |
| 0870 Benton Harbor, MI | 0.8810 |
| Berrien, MI | |
| 0875 Bergen-Passaic, NJ | 1.1689 |
| Bergen, NJ | |
| Passaic, NJ | |
| 0880 Billings, MT | 0.9352 |
| Yellowstone, MT | |
| 0920 Biloxi-Gulfport-Pascagoula, MS | 0.8440 |
| Hancock, MS | |
| Harrison, MS | |
| Jackson, MS | |
| 0960 Binghamton, NY | 0.8446 |
| Broome, NY | |
| Tioga, NY | |
| 1000 Birmingham, AL | 0.8808 |
| Blount, AL | |
| Jefferson, AL | |
| St. Clair, AL | |
| Shelby, AL | |
| 1010 Bismarck, ND | 0.7984 |
| Burleigh, ND | |
| Morton, ND | |
| 1020 Bloomington, IN | 0.8842 |
| Monroe, IN | |
| 1040 Bloomington-Normal, IL | 0.9038 |
| McLean, IL | |
| 1080 Boise City, ID | 0.9050 |
| Ada, ID | |
| Canyon, ID | |
| 1123 Boston-Worcester-Lawrence-Lowell-Brockton, MA-NH (NH Hospitals) | 1.1289 |
| Bristol, MA | |
| Essex, MA | |
| Middlesex, MA | |
| Norfolk, MA | |
| Plymouth, MA | |
| Suffolk, MA | |
| Worcester, MA | |
| Hillsborough, NH | |
| Merrimack, NH | |
| Rockingham, NH | |
| Strafford, NH | |
| 1125 Boulder-Longmont, CO | 0.9799 |
| Boulder, CO | |
| 1145 Brazoria, TX | 0.8209 |
| Brazoria, TX | |
| 1150 Bremerton, WA | 1.0758 |
| Kitsap, WA | |
| 1240 Brownsville-Harlingen-San Benito, TX | 0.9012 |
| Cameron, TX | |
| 1260 Bryan-College Station, TX | 0.9328 |
| Brazos, TX | |
| 1280 Buffalo-Niagara Falls, NY | 0.9459 |
| Erie, NY | |
| Niagara, NY | |
| 1303 Burlington, VT | 0.9883 |
| Chittenden, VT | |
| Franklin, VT | |
| Grand Isle, VT | |
| 1310 Caguas, PR | 0.4699 |
| Caguas, PR | |
| Cayey, PR | |
| Cidra, PR | |
| Gurabo, PR | |
| San Lorenzo, PR | |
| 1320 Canton-Massillon, OH | 0.8956 |
| Carroll, OH | |
| Stark, OH | |
| 1350 Casper, WY | 0.9496 |
| Natrona, WY | |
| 1360 Cedar Rapids, IA | 0.8699 |
| Linn, IA | |
| 1400 Champaign-Urbana, IL | 0.9306 |
| Champaign, IL | |
| 1440 Charleston-North Charleston, SC | 0.9206 |
| Berkeley, SC | |
| Charleston, SC | |
| Dorchester, SC | |
| 1480 Charleston, WV | 0.9264 |
| Kanawha, WV | |
| Putnam, WV | |
| 1520 Charlotte-Gastonia-Rock Hill, NC-SC | 0.9348 |
| Cabarrus, NC | |
| Gaston, NC | |
| Lincoln, NC | |
| Mecklenburg, NC | |
| Rowan, NC | |
| Stanly, NC | |
| Union, NC | |
| York, SC | |
| 1540 Charlottesville, VA | 1.0566 |
| Albemarle, VA | |
| Charlottesville City, VA | |
| Fluvanna, VA | |
| Greene, VA | |
| 1560 Chattanooga, TN-GA | 0.9369 |
| Catoosa, GA | |
| Dade, GA | |
| Walker, GA | |
| Hamilton, TN | |

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

| Urban Area (Constituent Counties) | Wage Index |
|---|---|
| Marion, TN | |
| 1580 Cheyenne, WY | 0.8288 |
| Laramie, WY | |
| 1600 Chicago, IL | 1.1046 |
| Cook, IL | |
| DeKalb, IL | |
| DuPage, IL | |
| Grundy, IL | |
| Kane, IL | |
| Kendall, IL | |
| Lake, IL | |
| McHenry, IL | |
| Will, IL | |
| 1620 Chico-Paradise, CA | 0.9856 |
| Butte, CA | |
| 1640 Cincinnati, OH-KY-IN | 0.9473 |
| Dearborn, IN | |
| Ohio, IN | |
| Boone, KY | |
| Campbell, KY | |
| Gallatin, KY | |
| Grant, KY | |
| Kenton, KY | |
| Pendleton, KY | |
| Brown, OH | |
| Clermont, OH | |
| Hamilton, OH | |
| Warren, OH | |
| 1660 Clarksville-Hopkinsville, TN-KY | 0.8337 |
| Christian, KY | |
| Montgomery, TN | |
| 1680 Cleveland-Lorain-Elyria, OH | 0.9457 |
| Ashtabula, OH | |
| Cuyahoga, OH | |
| Geauga, OH | |
| Lake, OH | |
| Lorain, OH | |
| Medina, OH | |
| 1720 Colorado Springs, CO | 0.9744 |
| El Paso, CO | |
| 1740 Columbia, MO | 0.8686 |
| Boone, MO | |
| 1760 Columbia, SC | 0.9492 |
| Lexington, SC | |
| Richland, SC | |
| 1800 Columbus, GA-AL–Russell, AL | 0.8440 |
| Chattahoochee, GA | |
| Harris, GA | |
| Muscogee, GA | |
| 1840 Columbus, OH | 0.9565 |
| Delaware, OH | |
| Fairfield, OH | |
| Franklin, OH | |
| Licking, OH | |
| Madison, OH | |
| Pickaway, OH | |
| 1880 Corpus Christi, TX | 0.8341 |
| Nueces, TX | |
| San Patricio, TX | |
| 1890 Corvallis, OR | 1.1646 |
| Benton, OR | |
| 1900 Cumberland, MD-WV (WV Hospital) | 0.8306 |
| Allegany, MD | |
| Mineral, WV | |
| 1920 Dallas, TX | 0.9936 |
| Collin, TX | |
| Dallas, TX | |
| Denton, TX | |
| Ellis, TX | |
| Henderson, TX | |
| Hunt, TX | |
| Kaufman, TX | |
| Rockwall, TX | |
| 1950 Danville, VA | 0.8613 |
| Danville City, VA | |
| Pittsylvania, VA | |
| 1960 Davenport-Moline-Rock Island, IA-IL | 0.8638 |
| Scott, IA | |
| Henry, IL | |
| Rock Island, IL | |
| 2000 Dayton-Springfield, OH | 0.9225 |
| Clark, OH | |
| Greene, OH | |
| Miami, OH | |
| Montgomery, OH | |
| 2020 Daytona Beach, FL | 0.8982 |
| Flagler, FL | |
| Volusia, FL | |
| 2030 Decatur, AL | 0.8775 |
| Lawrence, AL | |
| Morgan, AL | |
| 2040 Decatur, IL | 0.7987 |
| Macon, IL | |
| 2080 Denver, CO | 1.0328 |
| Adams, CO | |
| Arapahoe, CO | |
| Denver, CO | |
| Douglas, CO | |
| Jefferson, CO | |
| 2120 Des Moines, IA | 0.8779 |
| Dallas, IA | |
| Polk, IA | |
| Warren, IA | |
| 2160 Detroit, MI | 1.0487 |
| Lapeer, MI | |
| Macomb, MI | |
| Monroe, MI | |
| Oakland, MI | |
| St. Clair, MI | |
| Wayne, MI | |
| 2180 Dothan, AL | 0.7948 |
| Dale, AL | |
| Houston, AL | |
| 2190 Dover, DE | 1.0296 |
| Kent, DE | |
| 2200 Dubuque, IA | 0.8519 |
| Dubuque, IA | |
| 2240 Duluth-Superior, MN-WI | 1.0284 |
| St. Louis, MN | |
| Douglas, WI | |
| 2281 Dutchess County, NY | 1.0532 |
| Dutchess, NY | |
| 2290 Eau Claire, WI | 0.8832 |
| Chippewa, WI | |
| Eau Claire, WI | |
| 2320 El Paso, TX | 0.9215 |
| El Paso, TX | |
| 2330 Elkhart-Goshen, IN | 0.9638 |
| Elkhart, IN | |
| 2335 Elmira, NY | 0.8415 |
| Chemung, NY | |
| 2340 Enid, OK | 0.8357 |
| Garfield, OK | |
| 2360 Erie, PA | 0.8716 |
| Erie, PA | |
| 2400 Eugene-Springfield, OR | 1.1471 |
| Lane, OR | |
| 2440 Evansville-Henderson, IN-KY (IN Hospitals) | 0.8514 |
| Posey, IN | |
| Vanderburgh, IN | |
| Warrick, IN | |
| Henderson, KY | |
| 2520 Fargo-Moorhead, ND-MN | 0.9267 |
| Clay, MN | |
| Cass, ND | |
| 2560 Fayetteville, NC | 0.9027 |
| Cumberland, NC | |
| 2580 Fayetteville-Springdale-Rogers, AR | 0.8445 |
| Benton, AR | |
| Washington, AR | |
| 2620 Flagstaff, AZ-UT | 1.0556 |
| Coconino, AZ | |
| Kane, UT | |
| 2640 Flint, MI | 1.0913 |
| Genesee, MI | |
| 2650 Florence, AL | 0.7845 |
| Colbert, AL | |
| Lauderdale, AL | |
| 2655 Florence, SC | 0.8722 |
| Florence, SC | |
| 2670 Fort Collins-Loveland, CO | 1.0045 |
| Larimer, CO | |
| 2680 Ft. Lauderdale, FL | 1.0293 |
| Broward, FL | |
| 2700 Fort Myers-Cape Coral, FL | 0.9374 |
| Lee, FL | |
| 2710 Fort Pierce-Port St. Lucie, FL | 1.0214 |
| Martin, FL | |
| St. Lucie, FL | |
| 2720 Fort Smith, AR-OK | 0.8053 |
| Crawford, AR | |
| Sebastian, AR | |
| Sequoyah, OK | |
| 2750 Fort Walton Beach, FL | 0.9002 |
| Okaloosa, FL | |
| 2760 Fort Wayne, IN | 0.9203 |
| Adams, IN | |
| Allen, IN | |
| De Kalb, IN | |
| Huntington, IN | |
| Wells, IN | |
| Whitley, IN | |
| 2800 Forth Worth-Arlington, TX | 0.9394 |
| Hood, TX | |
| Johnson, TX | |
| Parker, TX | |
| Tarrant, TX | |
| 2840 Fresno, CA | 0.9887 |
| Fresno, CA | |
| Madera, CA | |
| 2880 Gadsden, AL. | |
| Etowah, AL | 0.8792 |
| 2900 Gainesville, FL | 0.9481 |
| Alachua, FL | |
| 2920 Galveston-Texas City, TX | 1.0313 |
| Galveston, TX | |
| 2960 Gary, IN | 0.9530 |
| Lake, IN | |
| Porter, IN | |
| 2975 Glens Falls, NY | 0.8336 |
| Warren, NY | |
| Washington, NY | |
| 2980 Goldsboro, NC | 0.8709 |

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

| Urban Area (Constituent Counties) | Wage Index |
|---|---|
| Wayne, NC | |
| 2985 Grand Forks, ND-MN | 0.9069 |
| Polk, MN | |
| Grand Forks, ND | |
| 2995 Grand Junction, CO | 0.9569 |
| Mesa, CO | |
| 3000 Grand Rapids-Muskegon-Holland, MI | 1.0048 |
| Allegan, MI | |
| Kent, MI | |
| Muskegon, MI | |
| Ottawa, MI | |
| 3040 Great Falls, MT | 0.8870 |
| Cascade, MT | |
| 3060 Greeley, CO | 0.9495 |
| Weld, CO | |
| 3080 Green Bay, WI | 0.9208 |
| Brown, WI | |
| 3120 Greensboro-Winston-Salem-High Point, NC | 0.9539 |
| Alamance, NC | |
| Davidson, NC | |
| Davie, NC | |
| Forsyth, NC | |
| Guilford, NC | |
| Randolph, NC | |
| Stokes, NC | |
| Yadkin, NC | |
| 3150 Greenville, NC | 0.9289 |
| Pitt, NC | |
| 3160 Greenville-Spartanburg-Anderson, SC | 0.9217 |
| Anderson, SC | |
| Cherokee, SC | |
| Greenville, SC | |
| Pickens, SC | |
| Spartanburg, SC | |
| 3180 Hagerstown, MD | 0.8365 |
| Washington, MD | |
| 3200 Hamilton-Middletown, OH | 0.9287 |
| Butler, OH | |
| 3240 Harrisburg-Lebanon-Carlisle, PA | 0.9425 |
| Cumberland, PA | |
| Dauphin, PA | |
| Lebanon, PA | |
| Perry, PA | |
| 3283 Hartford, CT | 1.1533 |
| Hartford, CT | |
| Litchfield, CT | |
| Middlesex, CT | |
| Tolland, CT | |
| 3285 [2] Hattiesburg, MS | 0.7476 |
| Forrest, MS | |
| Lamar, MS | |
| 3290 Hickory-Morganton-Lenoir, NC | 0.9367 |
| Alexander, NC | |
| Burke, NC | |
| Caldwell, NC | |
| Catawba, NC | |
| 3320 Honolulu, HI | 1.1539 |
| Honolulu, HI | |
| 3350 Houma, LA | 0.7951 |
| Lafourche, LA | |
| Terrebonne, LA | |
| 3360 Houston, TX | 0.9631 |
| Chambers, TX | |
| Fort Bend, TX | |
| Harris, TX | |
| Liberty, TX | |
| Montgomery, TX | |
| Waller, TX | |
| 3400 Huntington-Ashland, WV-KY-OH | 0.9616 |
| Boyd, KY | |
| Carter, KY | |
| Greenup, KY | |
| Lawrence, OH | |
| Cabell, WV | |
| Wayne, WV | |
| 3440 Huntsville, AL | 0.8883 |
| Limestone, AL | |
| Madison, AL | |
| 3480 Indianapolis, IN | 0.9698 |
| Boone, IN | |
| Hamilton, IN | |
| Hancock, IN | |
| Hendricks, IN | |
| Johnson, IN | |
| Madison, IN | |
| Marion, IN | |
| Morgan, IN | |
| Shelby, IN | |
| 3500 Iowa City, IA | 0.9859 |
| Johnson, IA | |
| 3520 Jackson, MI | 0.9257 |
| Jackson, MI | |
| 3560 Jackson, MS | 0.8491 |
| Hinds, MS | |
| Madison, MS | |
| Rankin, MS | |
| 3580 Jackson, TN | 0.9013 |
| Madison, TN | |
| Chester, TN | |
| 3600 Jacksonville, FL | 0.9223 |
| Clay, FL | |
| Duval, FL | |
| Nassau, FL | |
| St. Johns, FL | |
| 3605 Jacksonville, NC | 0.7622 |
| Onslow, NC | |
| 3610 Jamestown, NY | 0.8050 |
| Chautauqua, NY | |
| 3620 Janesville-Beloit, WI | 0.9739 |
| Rock, WI | |
| 3640 Jersey City, NJ | 1.1178 |
| Hudson, NJ | |
| 3660 Johnson City-Kingsport-Bristol, TN-VA | 0.8617 |
| Carter, TN | |
| Hawkins, TN | |
| Sullivan, TN | |
| Unicoi, TN | |
| Washington, TN | |
| Bristol City, VA | |
| Scott, VA | |
| Washington, VA | |
| 3680 Johnstown, PA | 0.8723 |
| Cambria, PA | |
| Somerset, PA | |
| 3700 Jonesboro, AR | 0.8425 |
| Craighead, AR | |
| 3710 Joplin, MO | 0.8727 |
| Jasper, MO | |
| Newton, MO | |
| 3720 Kalamazoo-Battlecreek, MI | 1.0639 |
| Calhoun, MI | |
| Kalamazoo, MI | |
| Van Buren, MI | |
| 3740 Kankakee, IL | 0.9889 |
| Kankakee, IL | |
| 3760 Kansas City, KS-MO | 0.9536 |
| Johnson, KS | |
| Leavenworth, KS | |
| Miami, KS | |
| Wyandotte, KS | |
| Cass, MO | |
| Clay, MO | |
| Clinton, MO | |
| Jackson, MO | |
| Lafayette, MO | |
| Platte, MO | |
| Ray, MO | |
| 3800 Kenosha, WI | 0.9568 |
| Kenosha, WI | |
| 3810 Killeen-Temple, TX | 0.7292 |
| Bell, TX | |
| Coryell, TX | |
| 3840 Knoxville, TN | 0.8890 |
| Anderson, TN | |
| Blount, TN | |
| Knox, TN | |
| Loudon, TN | |
| Sevier, TN | |
| Union, TN | |
| 3850 Kokomo, IN | 0.9126 |
| Howard, IN | |
| Tipton, IN | |
| 3870 La Crosse, WI-MN | 0.9250 |
| Houston, MN | |
| La Crosse, WI | |
| 3880 Lafayette, LA | 0.8526 |
| Acadia, LA | |
| Lafayette, LA | |
| St. Landry, LA | |
| St. Martin, LA | |
| 3920 Lafayette, IN | 0.9121 |
| Clinton, IN | |
| Tippecanoe, IN | |
| 3960 Lake Charles, LA | 0.7765 |
| Calcasieu, LA | |
| 3980 Lakeland-Winter Haven, FL | 0.9067 |
| Polk, FL | |
| 4000 Lancaster, PA | 0.9296 |
| Lancaster, PA | |
| 4040 Lansing-East Lansing, MI | 0.9653 |
| Clinton, MI | |
| Eaton, MI | |
| Ingham, MI | |
| 4080 Laredo, TX | 0.7849 |
| Webb, TX | |
| 4100 Las Cruces, NM | 0.8621 |
| Dona Ana, NM | |
| 4120 Las Vegas, NV-AZ | 1.1182 |
| Mohave, AZ | |
| Clark, NV | |
| Nye, NV | |
| 4150 Lawrence, KS | 0.8656 |
| Douglas, KS | |
| 4200 Lawton, OK | 0.8682 |
| Comanche, OK | |
| 4243 Lewiston-Auburn, ME | 0.9287 |
| Androscoggin, ME | |
| 4280 Lexington, KY | 0.8791 |
| Bourbon, KY | |
| Clark, KY | |
| Fayette, KY | |
| Jessamine, KY | |
| Madison, KY | |

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

| Urban Area (Constituent Counties) | Wage Index |
|---|---|
| Scott, KY | |
| Woodford, KY | |
| 4320 Lima, OH | 0.9470 |
| Allen, OH | |
| Auglaize, OH | |
| 4360 Lincoln, NE | 1.0173 |
| Lancaster, NE | |
| 4400 Little Rock-North Little Rock, AR | 0.8955 |
| Faulkner, AR | |
| Lonoke, AR | |
| Pulaski, AR | |
| Saline, AR | |
| 4420 Longview-Marshall, TX | 0.8571 |
| Gregg, TX | |
| Harrison, TX | |
| Upshur, TX | |
| 4480 Los Angeles-Long Beach, CA | 1.1948 |
| Los Angeles, CA | |
| 4520 [1] Louisville, KY-IN | 0.9529 |
| Clark, IN | |
| Floyd, IN | |
| Harrison, IN | |
| Scott, IN | |
| Bullitt, KY | |
| Jefferson, KY | |
| Oldham, KY | |
| 4600 Lubbock, TX | 0.8449 |
| Lubbock, TX | |
| 4640 Lynchburg, VA | 0.9103 |
| Amherst, VA | |
| Bedford, VA | |
| Bedford City, VA | |
| Campbell, VA | |
| Lynchburg City, VA | |
| 4680 Macon, GA | 0.8957 |
| Bibb, GA | |
| Houston, GA | |
| Jones, GA | |
| Peach, GA | |
| Twiggs, GA | |
| 4720 Madison, WI | 1.0337 |
| Dane, WI | |
| 4800 Mansfield, OH | 0.8708 |
| Crawford, OH | |
| Richland, OH | |
| 4840 Mayaguez, PR | 0.4860 |
| Anasco, PR | |
| Cabo Rojo, PR | |
| Hormigueros, PR | |
| Mayaguez, PR | |
| Sabana Grande, PR | |
| San German, PR | |
| 4880 McAllen-Edinburg-Mission, TX | 0.8378 |
| Hidalgo, TX | |
| 4890 Medford-Ashland, OR | 1.0314 |
| Jackson, OR | |
| 4900 Melbourne-Titusville-Palm Bay, FL | 0.9913 |
| Brevard, Fl | |
| 4920 Memphis, TN-AR-MS | 0.8978 |
| Crittenden, AR | |
| DeSoto, MS | |
| Fayette, TN | |
| Shelby, TN | |
| Tipton, TN | |
| 4940 Merced, CA | 0.9757 |
| Merced, CA | |
| 5000 Miami, FL | 0.9950 |
| Dade, FL | |
| 5015 Middlesex-Somerset-Hunterdon, NJ | 1.1469 |
| Hunterdon, NJ | |
| Middlesex, NJ | |
| Somerset, NJ | |
| 5080 Milwaukee-Waukesha, WI | 0.9971 |
| Milwaukee, WI | |
| Ozaukee, WI | |
| Washington, WI | |
| Waukesha, WI | |
| 5120 Minneapolis-St. Paul, MN-WI | 1.0930 |
| Anoka, MN | |
| Carver, MN | |
| Chisago, MN | |
| Dakota, MN | |
| Hennepin, MN | |
| Isanti, MN | |
| Ramsey, MN | |
| Scott, MN | |
| Sherburne, MN | |
| Washington, MN | |
| Wright, MN | |
| Pierce, WI | |
| St. Croix, WI | |
| 5140 Missoula, MT | 0.9364 |
| Missoula, MT | |
| 5160 Mobile, AL | 0.8082 |
| Baldwin, AL | |
| Mobile, AL | |
| 5170 Modesto, CA | 1.0820 |
| Stanislaus, CA | |
| 5190 Monmouth-Ocean, NJ | 1.0872 |
| Monmouth, NJ | |
| Ocean, NJ | |
| 5200 Monroe, LA | 0.8201 |
| Ouachita, LA | |
| 5240 Montgomery, AL | 0.7359 |
| Autauga, AL | |
| Elmore, AL | |
| Montgomery, AL | |
| 5280 Muncie, IN | 0.9939 |
| Delaware, IN | |
| 5330 Myrtle Beach, SC | 0.8771 |
| Horry, SC | |
| 5345 Naples, FL | 0.9699 |
| Collier, FL | |
| 5360 Nashville, TN | 0.9754 |
| Cheatham, TN | |
| Davidson, TN | |
| Dickson, TN | |
| Robertson, TN | |
| Rutherford TN | |
| Sumner, TN | |
| Williamson, TN | |
| Wilson, TN | |
| 5380 Nassau-Suffolk, NY | 1.3643 |
| Nassau, NY | |
| Suffolk, NY | |
| 5483 New Haven-Bridgeport-Stamford-Waterbury- | 1.2238 |
| Danbury, CT | |
| Fairfield, CT | |
| New Haven, CT | |
| 5523 New London-Norwich, CT | 1.1526 |
| New London, CT | |
| 5560 New Orleans, LA | 0.9036 |
| Jefferson, LA | |
| Orleans, LA | |
| Plaquemines, LA | |
| St. Bernard, LA | |
| St. Charles, LA | |
| St. James, LA | |
| St. John The Baptist, LA | |
| St. Tammany, LA | |
| 5600 New York, NY | 1.4427 |
| Bronx, NY | |
| Kings, NY | |
| New York, NY | |
| Putnam, NY | |
| Queens, NY | |
| Richmond, NY | |
| Rockland, NY | |
| Westchester, NY | |
| 5640 Newark, NJ | 1.1622 |
| Essex, NJ | |
| Morris, NJ | |
| Sussex, NJ | |
| Union, NJ | |
| Warren, NJ | |
| 5660 Newburgh, NY-PA | 1.1113 |
| Orange, NY | |
| Pike, PA | |
| 5720 Norfolk-Virginia Beach-Newport News, VA-NC | 0.8579 |
| Currituck, NC | |
| Chesapeake City, VA | |
| Gloucester, VA | |
| Hampton City, VA | |
| Isle of Wight, VA | |
| James City, VA | |
| Mathews, VA | |
| Newport News City, VA | |
| Norfolk City, VA | |
| Poquoson City, VA | |
| Portsmouth City, VA | |
| Suffolk City, VA | |
| Virginia Beach City VA | |
| Williamsburg City, VA | |
| York, VA | |
| 5775 Oakland, CA | 1.5319 |
| Alameda, CA | |
| Contra Costa, CA | |
| 5790 Ocala, FL | 0.9556 |
| Marion, FL | |
| 5800 Odessa-Midland, TX | 1.0104 |
| Ector, TX | |
| Midland, TX | |
| 5880 Oklahoma City, OK | 0.8694 |
| Canadian, OK | |
| Cleveland, OK | |
| Logan, OK | |
| McClain, OK | |
| Oklahoma, OK | |
| Pottawatomie, OK | |
| 5910 Olympia, WA | 1.1350 |
| Thurston, WA | |
| 5920 Omaha, NE-IA | 0.9712 |
| Pottawattamie, IA | |
| Cass, NE | |
| Douglas, NE | |
| Sarpy, NE | |
| Washington, NE | |
| 5945 Orange County, CA | 1.1123 |
| Orange, CA | |
| 5960 Orlando, FL | 0.9642 |
| Lake, FL | |
| Orange, FL | |

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

| Urban Area (Constituent Counties) | Wage Index |
|---|---|
| Osceola, FL | |
| Seminole, FL | |
| 5990 Owensboro, KY | 0.8334 |
| Daviess, KY | |
| 6015 Panama City, FL | 0.9061 |
| Bay, FL | |
| 6020 Parkersburg-Marietta, WV-OH | 0.8133 |
| Washington, OH | |
| Wood, WV | |
| 6080 Pensacola, FL | 0.8329 |
| Escambia, FL | |
| Santa Rosa, FL | |
| 6120 Peoria-Pekin, IL | 0.8773 |
| Peoria, IL | |
| Tazewell, IL | |
| Woodford, IL | |
| 6160 Philadelphia, PA-NJ | 1.0947 |
| Burlington, NJ | |
| Camden, NJ | |
| Gloucester, NJ | |
| Salem, NJ | |
| Bucks, PA | |
| Chester, PA | |
| Delaware, PA | |
| Montgomery, PA | |
| Philadelphia, PA | |
| 6200 Phoenix-Mesa, AZ | 0.9638 |
| Maricopa, AZ | |
| Pinal, AZ | |
| 6240 Pine Bluff, AR | 0.7895 |
| Jefferson, AR | |
| 6280 Pittsburgh, PA | 0.9560 |
| Allegheny, PA | |
| Beaver, PA | |
| Butler, PA | |
| Fayette, PA | |
| Washington, PA | |
| Westmoreland, PA | |
| 6323 Pittsfield, MA | 1.0278 |
| Berkshire, MA | |
| 6340 Pocatello, ID | 0.9448 |
| Bannock, ID | |
| 6360 Ponce, PR | 0.5218 |
| Guayanilla, PR | |
| Juana Diaz, PR | |
| Penuelas, PR | |
| Ponce, PR | |
| Villalba, PR | |
| Yauco, PR | |
| 6403 Portland, ME | 0.9427 |
| Cumberland, ME | |
| Sagadahoc, ME | |
| York, ME | |
| 6440 Portland-Vancouver, OR-WA | 1.1111 |
| Clackamas, OR | |
| Columbia, OR | |
| Multnomah, OR | |
| Washington, OR | |
| Yamhill, OR | |
| Clark, WA | |
| 6483 Providence-Warwick-Pawtucket, RI | 1.0805 |
| Bristol, RI | |
| Kent, RI | |
| Newport, RI | |
| Providence, RI | |
| Washington, RI | |
| 6520 Provo-Orem, UT | 0.9843 |
| Utah, UT | |
| 6560 Pueblo, CO | 0.8604 |
| Pueblo, CO | |
| 6580 Punta Gorda, FL | 0.9015 |
| Charlotte, FL | |
| 6600 Racine, WI | 0.9333 |
| Racine, WI | |
| 6640 Raleigh-Durham-Chapel Hill, NC | 0.9818 |
| Chatham, NC | |
| Durham, NC | |
| Franklin, NC | |
| Johnston, NC | |
| Orange, NC | |
| Wake, NC | |
| 6660 Rapid City, SD | 0.8869 |
| Pennington, SD | |
| 6680 Reading, PA | 0.9583 |
| Berks, PA | |
| 6690 Redding, CA | 1.1155 |
| Shasta, CA | |
| 6720 Reno, NV | 1.0440 |
| Washoe, NV | |
| 6740 Richland-Kennewick-Pasco, WA | 1.0960 |
| Benton, WA | |
| Franklin, WA | |
| 6760 Richmond-Petersburg, VA | 0.9678 |
| Charles City County, VA | |
| Chesterfield, VA | |
| Colonial Heights City, VA | |
| Dinwiddie, VA | |
| Goochland, VA | |
| Hanover, VA | |
| Henrico, VA | |
| Hopewell City, VA | |
| New Kent, VA | |
| Petersburg City, VA | |
| Powhatan, VA | |
| Prince George, VA | |
| Richmond City, VA | |
| 6780 Riverside-San Bernardino, CA | 1.1111 |
| Riverside, CA | |
| San Bernardino, CA | |
| 6800 Roanoke, VA | 0.8371 |
| Botetourt, VA | |
| Roanoke, VA | |
| Roanoke City, VA | |
| Salem City, VA | |
| 6820 Rochester, MN | 1.1462 |
| Olmsted, MN | |
| 6840 Rochester, NY | 0.9347 |
| Genesee, NY | |
| Livingston, NY | |
| Monroe, NY | |
| Ontario, NY | |
| Orleans, NY | |
| Wayne, NY | |
| 6880 Rockford, IL | 0.9204 |
| Boone, IL | |
| Ogle, IL | |
| Winnebago, IL | |
| 6895 Rocky Mount, NC | 0.9109 |
| Edgecombe, NC | |
| Nash, NC | |
| 6920 Sacramento, CA | 1.1831 |
| El Dorado, CA | |
| Placer, CA | |
| Sacramento, CA | |
| 6960 Saginaw-Bay City-Midland, MI | 0.9590 |
| Bay, MI | |
| Midland, MI | |
| Saginaw, MI | |
| 6980 St. Cloud, MN | 0.9851 |
| Benton, MN | |
| Stearns, MN | |
| 7000 St. Joseph, MO | 0.9009 |
| Andrew, MO | |
| Buchanan, MO | |
| 7040 St. Louis, MO-IL | 0.8931 |
| Clinton, IL | |
| Jersey, IL | |
| Madison, IL | |
| Monroe, IL | |
| St. Clair, IL | |
| Franklin, MO | |
| Jefferson, MO | |
| Lincoln, MO | |
| St. Charles, MO | |
| St. Louis, MO | |
| St. Louis City, MO | |
| Warren, MO | |
| 7080 Salem, OR | 1.0011 |
| Marion, OR | |
| Polk, OR | |
| 7120 Salinas, CA | 1.4684 |
| Monterey, CA | |
| 7160 Salt Lake City-Ogden, UT | 0.9863 |
| Davis, UT | |
| Salt Lake, UT | |
| Weber, UT | |
| 7200 San Angelo, TX | 0.8193 |
| Tom Green, TX | |
| 7240 San Antonio, TX | 0.8584 |
| Bexar, TX | |
| Comal, TX | |
| Guadalupe, TX | |
| Wilson, TX | |
| 7320 San Diego, CA | 1.1265 |
| San Diego, CA | |
| 7360 San Francisco, CA | 1.4140 |
| Marin, CA | |
| San Francisco, CA | |
| San Mateo, CA | |
| 7400 San Jose, CA | 1.4193 |
| Santa Clara, CA | |
| 7440 San Juan-Bayamon, PR | 0.4762 |
| Aguas Buenas, PR | |
| Barceloneta, PR | |
| Bayamon, PR | |
| Canovanas, PR | |
| Carolina, PR | |
| Catano, PR | |
| Ceiba, PR | |
| Comerio, PR | |
| Corozal, PR | |
| Dorado, PR | |
| Fajardo, PR | |
| Florida, PR | |
| Guaynabo, PR | |
| Humacao, PR | |
| Juncos, PR | |
| Los Piedras, PR | |
| Loiza, PR | |
| Luguillo, PR | |
| Manati, PR | |
| Morovis, PR | |
| Naguabo, PR | |

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

| Urban Area (Constituent Counties) | Wage Index |
|---|---|
| Naranjito, PR | |
| Rio Grande, PR | |
| San Juan, PR | |
| Toa Alta, PR | |
| Toa Baja, PR | |
| Trujillo Alto, PR | |
| Vega Alta, PR | |
| Vega Baja, PR | |
| Yabucoa, PR | |
| 7460 San Luis Obispo-Atascadero-Paso Robles, CA | 1.0990 |
| San Luis Obispo, CA | |
| 7480 Santa Barbara-Santa Maria-Lompoc, CA | 1.0802 |
| Santa Barbara, CA | |
| 7485 Santa Cruz-Watsonville, CA | 1.3970 |
| Santa Cruz, CA | |
| 7490 Santa Fe, NM | 1.0194 |
| Los Alamos, NM | |
| Santa Fe, NM | |
| 7500 Santa Rosa, CA | 1.3034 |
| Sonoma, CA | |
| 7510 Sarasota-Bradenton, FL | 1.0090 |
| Manatee, FL | |
| Sarasota, FL | |
| 7520 Savannah, GA | 0.9243 |
| Bryan, GA | |
| Chatham, GA | |
| Effingham, GA | |
| 7560 Scranton--Wilkes-Barre--Hazleton, PA | 0.8683 |
| Columbia, PA | |
| Lackawanna, PA | |
| Luzerne, PA | |
| Wyoming, PA | |
| 7600 Seattle-Bellevue-Everett, WA | 1.1361 |
| Island, WA | |
| King, WA | |
| Snohomish, WA | |
| 7610 Sharon, PA | 0.7926 |
| Mercer, PA | |
| 7620 Sheboygan, WI | 0.8427 |
| Sheboygan, WI | |
| 7640 Sherman-Denison, TX | 0.9373 |
| Grayson, TX | |
| 7680 Shreveport-Bossier City, LA | 0.9050 |
| Bossier, LA | |
| Caddo, LA | |
| Webster, LA | |
| 7720 Sioux City, IA-NE | 0.8767 |
| Woodbury, IA | |
| Dakota, NE | |
| 7760 Sioux Falls, SD | 0.9139 |
| Lincoln, SD | |
| Minnehaha, SD | |
| 7800 South Bend, IN | 0.9993 |
| St. Joseph, IN | |
| 7840 Spokane, WA | 1.0668 |
| Spokane, WA | |
| 7880 Springfield, IL | 0.8676 |
| Menard, IL | |
| Sangamon, IL | |
| 7920 Springfield, MO | 0.8567 |
| Christian, MO | |
| Greene, MO | |
| Webster, MO | |
| 8003 Springfield, MA | 1.0881 |
| Hampden, MA | |
| Hampshire, MA | |

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

| Urban Area (Constituent Counties) | Wage Index |
|---|---|
| 8050 State College, PA | 0.9133 |
| Centre, PA | |
| 8080 Steubenville-Weirton, OH-WV (WV Hospitals) | 0.8637 |
| Jefferson, OH | |
| Brooke, WV | |
| Hancock, WV | |
| 8120 Stockton-Lodi, CA | 1.0815 |
| San Joaquin, CA | |
| 8140 Sumter, SC | 0.7794 |
| Sumter, SC | |
| 8160 Syracuse, NY | 0.9621 |
| Cayuga, NY | |
| Madison, NY | |
| Onondaga, NY | |
| Oswego, NY | |
| 8200 Tacoma, WA | 1.1616 |
| Pierce, WA | |
| 8240 Tallahassee, FL | 0.8527 |
| Gadsden, FL | |
| Leon, FL | |
| 8280 Tampa-St. Petersburg-Clearwater, FL | 0.8925 |
| Hernando, FL | |
| Hillsborough, FL | |
| Pasco, FL | |
| Pinellas, FL | |
| 8320 Terre Haute, IN | 0.8532 |
| Clay, IN | |
| Vermillion, IN | |
| Vigo, IN | |
| 8360 Texarkana,AR-Texarkana, TX | 0.8327 |
| Miller, AR | |
| Bowie, TX | |
| 8400 Toledo, OH | 0.9809 |
| Fulton, OH | |
| Lucas, OH | |
| Wood, OH | |
| 8440 Topeka, KS | 0.8912 |
| Shawnee, KS | |
| 8480 Trenton, NJ | 1.0416 |
| Mercer, NJ | |
| 8520 Tucson, AZ | 0.8967 |
| Pima, AZ | |
| 8560 Tulsa, OK | 0.8902 |
| Creek, OK | |
| Osage, OK | |
| Rogers, OK | |
| Tulsa, OK | |
| Wagoner, OK | |
| 8600 Tuscaloosa, AL | 0.8171 |
| Tuscaloosa, AL | |
| 8640 Tyler, TX | 0.9641 |
| Smith, TX | |
| 8680 Utica-Rome, NY | 0.8329 |
| Herkimer, NY | |
| Oneida, NY | |
| 8720 Vallejo-Fairfield-Napa, CA | 1.3562 |
| Napa, CA | |
| Solano, CA | |
| 8735 Ventura, CA | 1.0994 |
| Ventura, CA | |
| 8750 Victoria, TX | 0.8328 |
| Victoria, TX | |
| 8760 Vineland-Millville-Bridgeton, NJ | 1.0441 |
| Cumberland, NJ | |
| 8780 Visalia-Tulare-Porterville, CA | 0.9610 |

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

| Urban Area (Constituent Counties) | Wage Index |
|---|---|
| Tulare, CA | |
| 8800 Waco, TX | 0.8129 |
| McLennan, TX | |
| 8840 Washington, DC-MD-VA-WV | 1.0962 |
| District of Columbia, DC | |
| Calvert, MD | |
| Charles, MD | |
| Frederick, MD | |
| Montgomery, MD | |
| Prince Georges, MD | |
| Alexandria City, VA | |
| Arlington, VA | |
| Clarke, VA | |
| Culpeper, VA | |
| Fairfax, VA | |
| Fairfax City, VA | |
| Falls Church City, VA | |
| Fauquier, VA | |
| Fredericksburg City, VA | |
| King George, VA | |
| Loudoun, VA | |
| Manassas City, VA | |
| Manassas Park City, VA | |
| Prince William, VA | |
| Spotsylvania, VA | |
| Stafford, VA | |
| Warren, VA Berkeley, WV | |
| Jefferson, WV | |
| 8920 Waterloo-Cedar Falls, IA | 0.8041 |
| Black Hawk, IA | |
| 8940 Wausau, WI | 0.9696 |
| Marathon, WI | |
| 8960 West Palm Beach-Boca Raton, FL | 0.9777 |
| Palm Beach, FL | |
| 9000 Wheeling, WV-OH | 0.7985 |
| Belmont, OH | |
| Marshall, WV | |
| Ohio, WV | |
| 9040 Wichita, KS | 0.9606 |
| Butler, KS | |
| Harvey, KS | |
| Sedgwick, KS | |
| 9080 Wichita Falls, TX | 0.7867 |
| Archer, TX | |
| Wichita, TX | |
| 9140 Williamsport, PA | 0.8521 |
| Lycoming, PA | |
| 9160 Wilmington-Newark, DE-MD | 1.0877 |
| New Castle, DE | |
| Cecil, MD | |
| 9200 Wilmington, NC | 0.9409 |
| New Hanover, NC | |
| Brunswick, NC | |
| 9260 Yakima, WA | 1.0567 |
| Yakima, WA | |
| 9270 Yolo, CA | 0.9701 |
| Yolo, CA | |
| 9280 York, PA | 0.9441 |
| York, PA | |
| 9320 Youngstown-Warren, OH | 0.9563 |
| Columbiana, OH | |
| Mahoning, OH | |
| Trumbull, OH | |
| 9340 Yuba City, CA | 1.0359 |
| Sutter, CA | |
| Yuba, CA | |
| 9360 Yuma, AZ | 0.8989 |
| Yuma, AZ | |

TABLE 4H.—PRE-RECLASSIFIED WAGE INDEX FOR RURAL AREAS

| Nonurban Area | Wage Index |
|---|---|
| Alabama | 0.7339 |
| Alaska | 1.1862 |
| Arizona | 0.8681 |
| Arkansas | 0.7489 |
| California | 0.9772 |
| Colorado | 0.8811 |
| Connecticut | 1.2077 |
| Delaware | 0.9589 |
| Florida | 0.8812 |
| Georgia | 0.8295 |
| Hawaii | 1.1112 |
| Idaho | 0.8718 |
| Illinois | 0.8053 |
| Indiana | 0.8721 |
| Iowa | 0.8147 |
| Kansas | 0.7769 |
| Kentucky | 0.7963 |
| Louisiana | 0.7601 |
| Maine | 0.8721 |
| Maryland | 0.8859 |
| Massachusetts | 1.1454 |
| Michigan | 0.9010 |
| Minnesota | 0.9035 |
| Mississippi | 0.7528 |
| Missouri | 0.7778 |
| Montana | 0.8655 |
| Nebraska | 0.8142 |
| Nevada | 0.9673 |
| New Hampshire | 0.9803 |
| New Jersey [1] | ..... |
| New Mexico | 0.8676 |
| New York | 0.8547 |
| North Carolina | 0.8539 |
| North Dakota | 0.7879 |
| Ohio | 0.8668 |
| Oklahoma | 0.7566 |
| Oregon | 1.0027 |
| Pennsylvania | 0.8617 |
| Puerto Rico | 0.4800 |
| Rhode Island [1] | ..... |
| South Carolina | 0.8512 |
| South Dakota | 0.7861 |
| Tennessee | 0.7928 |
| Texas | 0.7712 |
| Utah | 0.9051 |
| Vermont | 0.9466 |
| Virginia | 0.8241 |
| Washington | 1.0209 |
| West Virginia | 0.8067 |
| Wisconsin | 0.9079 |
| Wyoming | 0.8747 |

[1] All counties within the State are classified as urban.

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY

| DRG | MDC | Type | DRG title | Relative weights | Geometric mean LOS | Arithmetic mean LOS |
|---|---|---|---|---|---|---|
| 1 | 01 | SURG | CRANIOTOMY AGE >17 EXCEPT FOR TRAUMA | 3.2713 | 7.6 | 10.2 |
| 2 | 01 | SURG | CRANIOTOMY FOR TRAUMA AGE >17 | 3.3874 | 8.8 | 11.1 |
| 3 | 01 | SURG | *CRANIOTOMY AGE 0-17 | 1.9594 | 12.7 | 12.7 |
| 4 | 01 | SURG | SPINAL PROCEDURES | 2.4148 | 5.5 | 8.1 |
| 5 | 01 | SURG | EXTRACRANIAL VASCULAR PROCEDURES | 1.3628 | 2.3 | 3.2 |
| 6 | 01 | SURG | CARPAL TUNNEL RELEASE | .7230 | 2.1 | 3.0 |
| 7 | 01 | SURG | PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC W CC | 2.6285 | 8.3 | 11.1 |
| 8 | 01 | SURG | PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC W/O CC | 1.3953 | 2.0 | 2.9 |
| 9 | 01 | MED | SPINAL DISORDERS & INJURIES | 1.3350 | 5.2 | 6.9 |
| 10 | 01 | MED | NERVOUS SYSTEM NEOPLASMS W CC | 1.2690 | 5.5 | 7.2 |
| 11 | 01 | MED | NERVOUS SYSTEM NEOPLASMS W/O CC | .8471 | 3.3 | 4.3 |
| 12 | 01 | MED | DEGENERATIVE NERVOUS SYSTEM DISORDERS | .9020 | 4.9 | 6.3 |
| 13 | 01 | MED | MULTIPLE SCLEROSIS & CEREBELLAR ATAXIA | .8129 | 4.5 | 5.5 |
| 14 | 01 | MED | SPECIFIC CEREBROVASCULAR DISORDERS EXCEPT TIA | 1.1655 | 4.8 | 6.1 |
| 15 | 01 | MED | TRANSIENT ISCHEMIC ATTACK & PRECEREBRAL OCCLUSIONS | .7349 | 3.0 | 3.7 |
| 16 | 01 | MED | NONSPECIFIC CEREBROVASCULAR DISORDERS W CC | 1.1867 | 5.1 | 6.5 |
| 17 | 01 | MED | NONSPECIFIC CEREBROVASCULAR DISORDERS W/O CC | .6689 | 2.7 | 3.4 |
| 18 | 01 | MED | CRANIAL & PERIPHERAL NERVE DISORDERS W CC | .9744 | 4.6 | 5.8 |
| 19 | 01 | MED | CRANIAL & PERIPHERAL NERVE DISORDERS W/O CC | .6756 | 3.0 | 3.8 |
| 20 | 01 | MED | NERVOUS SYSTEM INFECTION EXCEPT VIRAL MENINGITIS | 2.7764 | 9.0 | 11.4 |
| 21 | 01 | MED | VIRAL MENINGITIS | 1.4573 | 5.5 | 7.1 |
| 22 | 01 | MED | HYPERTENSIVE ENCEPHALOPATHY | 1.0037 | 4.0 | 5.1 |
| 23 | 01 | MED | NONTRAUMATIC STUPOR & COMA | .8069 | 3.4 | 4.4 |
| 24 | 01 | MED | SEIZURE & HEADACHE AGE >17 W CC | 1.0172 | 4.0 | 5.3 |
| 25 | 01 | MED | SEIZURE & HEADACHE AGE >17 W/O CC | .5947 | 2.7 | 3.3 |
| 26 | 01 | MED | SEIZURE & HEADACHE AGE 0-17 | .5981 | 2.4 | 3.0 |
| 27 | 01 | MED | TRAUMATIC STUPOR & COMA, COMA >1 HR | 1.3514 | 3.7 | 5.6 |
| 28 | 01 | MED | TRAUMATIC STUPOR & COMA, COMA <1 HR AGE >17 W CC | 1.3609 | 5.2 | 6.8 |
| 29 | 01 | MED | TRAUMATIC STUPOR & COMA, COMA <1 HR AGE >17 W/O CC | .6956 | 3.0 | 3.8 |
| 30 | 01 | MED | *TRAUMATIC STUPOR & COMA, COMA <1 HR AGE 0-17 | .3314 | 2.0 | 2.0 |
| 31 | 01 | MED | CONCUSSION AGE >17 W CC | .9165 | 3.5 | 4.8 |
| 32 | 01 | MED | CONCUSSION AGE >17 W/O CC | .5230 | 2.0 | 2.6 |
| 33 | 01 | MED | *CONCUSSION AGE 0-17 | .2082 | 1.6 | 1.6 |
| 34 | 01 | MED | OTHER DISORDERS OF NERVOUS SYSTEM W CC | 1.0074 | 4.2 | 5.4 |
| 35 | 01 | MED | OTHER DISORDERS OF NERVOUS SYSTEM W/O CC | .5885 | 2.7 | 3.5 |
| 36 | 02 | SURG | RETINAL PROCEDURES | .6615 | 1.2 | 1.5 |
| 37 | 02 | SURG | ORBITAL PROCEDURES | 1.1300 | 2.9 | 4.3 |
| 38 | 02 | SURG | PRIMARY IRIS PROCEDURES | .4751 | 2.0 | 2.6 |
| 39 | 02 | SURG | LENS PROCEDURES WITH OR WITHOUT VITRECTOMY | .5986 | 1.5 | 1.9 |
| 40 | 02 | SURG | EXTRAOCULAR PROCEDURES EXCEPT ORBIT AGE >17 | .8264 | 2.4 | 3.6 |

* Medicare data have been supplemented by data from 19 states for low volume DRGs.
** DRGs 469 and 470 contain cases which could not be assigned to valid DRGs.
Note: Geometric mean is used only to determine payment for transfer cases.
Note: Arithmetic mean is presented for informational purposes only.
Note: Relative weights are based on Medicare patient data and may not be appropriate for other patients.

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

| DRG | MDC | Type | DRG title | Relative weights | Geometric mean LOS | Arithmetic mean LOS |
|---|---|---|---|---|---|---|
| 41 | 02 | SURG | *EXTRAOCULAR PROCEDURES EXCEPT ORBIT AGE 0-17 | .3374 | 1.6 | 1.6 |
| 42 | 02 | SURG | INTRAOCULAR PROCEDURES EXCEPT RETINA, IRIS & LENS | .6302 | 1.6 | 2.3 |
| 43 | 02 | MED | HYPHEMA | .4578 | 2.8 | 3.3 |
| 44 | 02 | MED | ACUTE MAJOR EYE INFECTIONS | .6554 | 4.3 | 5.2 |
| 45 | 02 | MED | NEUROLOGICAL EYE DISORDERS | .6760 | 2.7 | 3.3 |
| 46 | 02 | MED | OTHER DISORDERS OF THE EYE AGE >17 W CC | .7962 | 3.9 | 5.0 |
| 47 | 02 | MED | OTHER DISORDERS OF THE EYE AGE >17 W/O CC | .5043 | 2.7 | 3.4 |
| 48 | 02 | MED | *OTHER DISORDERS OF THE EYE AGE 0-17 | .2972 | 2.9 | 2.9 |
| 49 | 03 | SURG | MAJOR HEAD & NECK PROCEDURES | 1.7649 | 3.8 | 5.1 |
| 50 | 03 | SURG | SIALOADENECTOMY | .8158 | 1.5 | 1.9 |
| 51 | 03 | SURG | SALIVARY GLAND PROCEDURES EXCEPT SIALOADENECTOMY | .7895 | 1.8 | 2.7 |
| 52 | 03 | SURG | CLEFT LIP & PALATE REPAIR | .7590 | 1.5 | 1.9 |
| 53 | 03 | SURG | SINUS & MASTOID PROCEDURES AGE >17 | 1.1773 | 2.3 | 3.7 |
| 54 | 03 | SURG | *SINUS & MASTOID PROCEDURES AGE 0-17 | .4817 | 3.2 | 3.2 |
| 55 | 03 | SURG | MISCELLANEOUS EAR, NOSE, MOUTH & THROAT PROCEDURES | .8483 | 1.8 | 2.7 |
| 56 | 03 | SURG | RHINOPLASTY | .8787 | 2.0 | 2.7 |
| 57 | 03 | SURG | T&A PROC, EXCEPT TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE >17. | 1.2004 | 2.8 | 4.3 |
| 58 | 03 | SURG | *T&A PROC, EXCEPT TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE 0-17. | .2735 | 1.5 | 1.5 |
| 59 | 03 | SURG | TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE >17 | .8276 | 1.9 | 2.8 |
| 60 | 03 | SURG | *TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE 0-17 | .2083 | 1.5 | 1.5 |
| 61 | 03 | SURG | MYRINGOTOMY W TUBE INSERTION AGE >17 | 1.3541 | 3.3 | 5.7 |
| 62 | 03 | SURG | *MYRINGOTOMY W TUBE INSERTION AGE 0-17 | .2950 | 1.3 | 1.3 |
| 63 | 03 | SURG | OTHER EAR, NOSE, MOUTH & THROAT O.R. PROCEDURES | 1.3718 | 3.3 | 4.7 |
| 64 | 03 | MED | EAR, NOSE, MOUTH & THROAT MALIGNANCY | 1.2319 | 4.8 | 6.8 |
| 65 | 03 | MED | DYSEQUILIBRIUM | .5326 | 2.4 | 2.9 |
| 66 | 03 | MED | EPISTAXIS | .5536 | 2.6 | 3.3 |
| 67 | 03 | MED | EPIGLOTTITIS | .7514 | 3.0 | 3.7 |
| 68 | 03 | MED | OTITIS MEDIA & URI AGE >17 W CC | .6665 | 3.6 | 4.3 |
| 69 | 03 | MED | OTITIS MEDIA & URI AGE >17 W/O CC | .4948 | 2.8 | 3.4 |
| 70 | 03 | MED | OTITIS MEDIA & URI AGE 0-17 | .4575 | 2.5 | 3.0 |
| 71 | 03 | MED | LARYNGOTRACHEITIS | .6685 | 3.1 | 4.0 |
| 72 | 03 | MED | NASAL TRAUMA & DEFORMITY | .6699 | 2.9 | 3.7 |
| 73 | 03 | MED | OTHER EAR, NOSE, MOUTH & THROAT DIAGNOSES AGE >17 | .7993 | 3.6 | 4.7 |
| 74 | 03 | MED | *OTHER EAR, NOSE, MOUTH & THROAT DIAGNOSES AGE 0-17 | .3352 | 2.1 | 2.1 |
| 75 | 04 | SURG | MAJOR CHEST PROCEDURES | 3.2096 | 8.8 | 10.8 |
| 76 | 04 | SURG | OTHER RESP SYSTEM O.R. PROCEDURES W CC | 3.0129 | 10.1 | 12.7 |
| 77 | 04 | SURG | OTHER RESP SYSTEM O.R. PROCEDURES W/O CC | 1.2416 | 4.1 | 5.5 |
| 78 | 04 | MED | PULMONARY EMBOLISM | 1.3295 | 6.3 | 7.2 |
| 79 | 04 | MED | RESPIRATORY INFECTIONS & INFLAMMATIONS AGE >17 W CC | 1.7094 | 7.6 | 9.3 |
| 80 | 04 | MED | RESPIRATORY INFECTIONS & INFLAMMATIONS AGE >17 W/O CC | .9215 | 5.0 | 6.0 |
| 81 | 04 | MED | *RESPIRATORY INFECTIONS & INFLAMMATIONS AGE 0-17 | 1.5177 | 6.1 | 6.1 |
| 82 | 04 | MED | RESPIRATORY NEOPLASMS | 1.4316 | 6.0 | 7.6 |
| 83 | 04 | MED | MAJOR CHEST TRAUMA W CC | .9803 | 4.8 | 5.9 |
| 84 | 04 | MED | MAJOR CHEST TRAUMA W/O CC | .5454 | 2.8 | 3.5 |
| 85 | 04 | MED | PLEURAL EFFUSION W CC | 1.2483 | 5.5 | 6.9 |
| 86 | 04 | MED | PLEURAL EFFUSION W/O CC | .6769 | 3.0 | 3.8 |
| 87 | 04 | MED | PULMONARY EDEMA & RESPIRATORY FAILURE | 1.4282 | 5.5 | 6.9 |
| 88 | 04 | MED | CHRONIC OBSTRUCTIVE PULMONARY DISEASE | .9127 | 4.5 | 5.4 |
| 89 | 04 | MED | SIMPLE PNEUMONIA & PLEURISY AGE >17 W CC | 1.0601 | 5.3 | 6.3 |
| 90 | 04 | MED | SIMPLE PNEUMONIA & PLEURISY AGE >17 W/O CC | .6344 | 3.7 | 4.3 |
| 91 | 04 | MED | SIMPLE PNEUMONIA & PLEURISY AGE 0-17 | .7937 | 3.8 | 4.7 |
| 92 | 04 | MED | INTERSTITIAL LUNG DISEASE W CC | 1.2296 | 5.6 | 6.8 |
| 93 | 04 | MED | INTERSTITIAL LUNG DISEASE W/O CC | .7443 | 3.5 | 4.3 |
| 94 | 04 | MED | PNEUMOTHORAX W CC | 1.2024 | 5.4 | 6.9 |
| 95 | 04 | MED | PNEUMOTHORAX W/O CC | .5817 | 3.2 | 3.9 |
| 96 | 04 | MED | BRONCHITIS & ASTHMA AGE >17 W CC | .7604 | 4.1 | 4.9 |
| 97 | 04 | MED | BRONCHITIS & ASTHMA AGE >17 W/O CC | .5636 | 3.2 | 3.8 |
| 98 | 04 | MED | BRONCHITIS & ASTHMA AGE 0-17 | .7496 | 3.1 | 4.6 |
| 99 | 04 | MED | RESPIRATORY SIGNS & SYMPTOMS W CC | .6964 | 2.6 | 3.3 |
| 100 | 04 | MED | RESPIRATORY SIGNS & SYMPTOMS W/O CC | .5186 | 1.8 | 2.2 |
| 101 | 04 | MED | OTHER RESPIRATORY SYSTEM DIAGNOSES W CC | .8604 | 3.6 | 4.7 |
| 102 | 04 | MED | OTHER RESPIRATORY SYSTEM DIAGNOSES W/O CC | .5207 | 2.1 | 2.7 |
| 103 | PRE | SURG | HEART TRANSPLANT | 20.2413 | 39.2 | 58.5 |

* Medicare data have been supplemented by data from 19 states for low volume DRGs.
** DRGs 469 and 470 contain cases which could not be assigned to valid DRGs.
Note: Geometric mean is used only to determine payment for transfer cases.
Note: Arithmetic mean is presented for informational purposes only.
Note: Relative weights are based on Medicare patient data and may not be appropriate for other patients.

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

| DRG | MDC | Type | DRG title | Relative weights | Geometric mean LOS | Arithmetic mean LOS |
|---|---|---|---|---|---|---|
| 104 .... | 05 | SURG | CARDIAC VALVE & OTH MAJOR CARDIOTHORACIC PROC W CARD CATH. | 7.8411 | 13.2 | 15.3 |
| 105 .... | 05 | SURG | CARDIAC VALVE & OTH MAJOR CARDIOTHORACIC PROC W/O CARD CATH. | 5.6796 | 8.8 | 10.4 |
| 106 .... | 05 | SURG | CORONARY BYPASS W PTCA | 7.4396 | 10.7 | 12.3 |
| 107 .... | 05 | SURG | CORONARY BYPASS W CARDIAC CATH | 5.3125 | 9.7 | 10.9 |
| 108 .... | 05 | SURG | OTHER CARDIOTHORACIC PROCEDURES | 5.5325 | 9.2 | 11.2 |
| 109 .... | 05 | SURG | CORONARY BYPASS W/O PTCA OR CARDIAC CATH | 3.9017 | 7.0 | 8.0 |
| 110 .... | 05 | SURG | MAJOR CARDIOVASCULAR PROCEDURES W CC | 4.1576 | 8.1 | 10.3 |
| 111 .... | 05 | SURG | MAJOR CARDIOVASCULAR PROCEDURES W/O CC | 2.2865 | 4.3 | 5.1 |
| 112 .... | 05 | SURG | NO LONGER VALID | .0000 | .0 | .0 |
| 113 .... | 05 | SURG | AMPUTATION FOR CIRC SYSTEM DISORDERS EXCEPT UPPER LIMB & TOE. | 2.6714 | 9.8 | 12.9 |
| 114 .... | 05 | SURG | UPPER LIMB & TOE AMPUTATION FOR CIRC SYSTEM DISORDERS | 1.6809 | 7.3 | 9.4 |
| 115 .... | 05 | SURG | PRM CARD PACEM IMPL W AMI,HRT FAIL OR SHK,OR AICD LEAD OR GN. | 3.3822 | 7.2 | 9.2 |
| 116 .... | 05 | SURG | OTHER PERMANENT CARDIAC PACEMAKER IMPLANT | 2.2648 | 3.6 | 4.9 |
| 117 .... | 05 | SURG | CARDIAC PACEMAKER REVISION EXCEPT DEVICE REPLACEMENT | 1.3351 | 2.8 | 4.5 |
| 118 .... | 05 | SURG | CARDIAC PACEMAKER DEVICE REPLACEMENT | 1.4339 | 1.8 | 2.7 |
| 119 .... | 05 | SURG | VEIN LIGATION & STRIPPING | 1.3578 | 3.3 | 5.3 |
| 120 .... | 05 | SURG | OTHER CIRCULATORY SYSTEM O.R. PROCEDURES | 2.3552 | 6.7 | 9.9 |
| 121 .... | 05 | MED | CIRCULATORY DISORDERS W AMI & MAJOR COMP, DISCHARGED ALIVE. | 1.5787 | 5.6 | 6.9 |
| 122 .... | 05 | MED | CIRCULATORY DISORDERS W AMI W/O MAJOR COMP, DISCHARGED ALIVE. | 1.0241 | 3.2 | 3.9 |
| 123 .... | 05 | MED | CIRCULATORY DISORDERS W AMI, EXPIRED | 1.5883 | 3.2 | 5.0 |
| 124 .... | 05 | MED | CIRCULATORY DISORDERS EXCEPT AMI, W CARD CATH & COMPLEX DIAG. | 1.4072 | 3.6 | 4.6 |
| 125 .... | 05 | MED | CIRCULATORY DISORDERS EXCEPT AMI, W CARD CATH W/O COMPLEX DIAG. | 1.0406 | 2.2 | 2.8 |
| 126 .... | 05 | MED | ACUTE & SUBACUTE ENDOCARDITIS | 2.6836 | 10.5 | 13.0 |
| 127 .... | 05 | MED | HEART FAILURE & SHOCK | 1.0103 | 4.5 | 5.6 |
| 128 .... | 05 | MED | DEEP VEIN THROMBOPHLEBITIS | .7320 | 5.2 | 5.9 |
| 129 .... | 05 | MED | CARDIAC ARREST, UNEXPLAINED | 1.0209 | 1.7 | 2.8 |
| 130 .... | 05 | MED | PERIPHERAL VASCULAR DISORDERS W CC | .9379 | 5.0 | 6.1 |
| 131 .... | 05 | MED | PERIPHERAL VASCULAR DISORDERS W/O CC | .5725 | 3.8 | 4.5 |
| 132 .... | 05 | MED | ATHEROSCLEROSIS W CC | .6473 | 2.5 | 3.1 |
| 133 .... | 05 | MED | ATHEROSCLEROSIS W/O CC | .5558 | 1.9 | 2.3 |
| 134 .... | 05 | MED | HYPERTENSION | .5814 | 2.7 | 3.4 |
| 135 .... | 05 | MED | CARDIAC CONGENITAL & VALVULAR DISORDERS AGE >17 W CC | .9128 | 3.7 | 4.8 |
| 136 .... | 05 | MED | CARDIAC CONGENITAL & VALVULAR DISORDERS AGE >17 W/O CC. | .5643 | 2.2 | 2.8 |
| 137 .... | 05 | MED | *CARDIAC CONGENITAL & VALVULAR DISORDERS AGE 0-17 | .8177 | 3.3 | 3.3 |
| 138 .... | 05 | MED | CARDIAC ARRHYTHMIA & CONDUCTION DISORDERS W CC | .8222 | 3.3 | 4.2 |
| 139 .... | 05 | MED | CARDIAC ARRHYTHMIA & CONDUCTION DISORDERS W/O CC | .4961 | 2.1 | 2.5 |
| 140 .... | 05 | MED | ANGINA PECTORIS | .5335 | 2.2 | 2.7 |
| 141 .... | 05 | MED | SYNCOPE & COLLAPSE W CC | .7241 | 3.0 | 3.8 |
| 142 .... | 05 | MED | SYNCOPE & COLLAPSE W/O CC | .5395 | 2.2 | 2.7 |
| 143 .... | 05 | MED | CHEST PAIN | .5191 | 1.7 | 2.1 |
| 144 .... | 05 | MED | OTHER CIRCULATORY SYSTEM DIAGNOSES W CC | 1.2015 | 4.3 | 5.8 |
| 145 .... | 05 | MED | OTHER CIRCULATORY SYSTEM DIAGNOSES W/O CC | .5899 | 2.2 | 2.8 |
| 146 .... | 06 | SURG | RECTAL RESECTION W CC | 2.7764 | 9.6 | 10.9 |
| 147 .... | 06 | SURG | RECTAL RESECTION W/O CC | 1.5993 | 6.2 | 6.7 |
| 148 .... | 06 | SURG | MAJOR SMALL & LARGE BOWEL PROCEDURES W CC | 3.5332 | 11.1 | 13.1 |
| 149 .... | 06 | SURG | MAJOR SMALL & LARGE BOWEL PROCEDURES W/O CC | 1.5063 | 6.2 | 6.7 |
| 150 .... | 06 | SURG | PERITONEAL ADHESIOLYSIS W CC | 2.9483 | 10.5 | 12.2 |
| 151 .... | 06 | SURG | PERITONEAL ADHESIOLYSIS W/O CC | 1.3451 | 5.3 | 6.3 |
| 152 .... | 06 | SURG | MINOR SMALL & LARGE BOWEL PROCEDURES W CC | 1.9477 | 7.4 | 8.7 |
| 153 .... | 06 | SURG | MINOR SMALL & LARGE BOWEL PROCEDURES W/O CC | 1.1642 | 5.1 | 5.6 |
| 154 .... | 06 | SURG | STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE >17 W CC. | 4.3519 | 11.9 | 14.7 |
| 155 .... | 06 | SURG | STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE >17 W/O CC. | 1.3273 | 3.4 | 4.5 |
| 156 .... | 06 | SURG | *STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE 0-17 | .8421 | 6.0 | 6.0 |
| 157 .... | 06 | SURG | ANAL & STOMAL PROCEDURES W CC | 1.2599 | 4.4 | 5.9 |
| 158 .... | 06 | SURG | ANAL & STOMAL PROCEDURES W/O CC | .6209 | 2.0 | 2.5 |

* Medicare data have been supplemented by data from 19 states for low volume DRGs.
** DRGs 469 and 470 contain cases which could not be assigned to valid DRGs.
Note: Geometric mean is used only to determine payment for transfer cases.
Note: Arithmetic mean is presented for informational purposes only.
Note: Relative weights are based on Medicare patient data and may not be appropriate for other patients.

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

| DRG | MDC | Type | DRG title | Relative weights | Geometric mean LOS | Arithmetic mean LOS |
|---|---|---|---|---|---|---|
| 159 .... | 06 | SURG | HERNIA PROCEDURES EXCEPT INGUINAL & FEMORAL AGE >17 W CC. | 1.3618 | 4.2 | 5.4 |
| 160 .... | 06 | SURG | HERNIA PROCEDURES EXCEPT INGUINAL & FEMORAL AGE >17 W/O CC. | .7655 | 2.2 | 2.7 |
| 161 .... | 06 | SURG | INGUINAL & FEMORAL HERNIA PROCEDURES AGE >17 W CC ..... | 1.1375 | 3.2 | 4.5 |
| 162 .... | 06 | SURG | INGUINAL & FEMORAL HERNIA PROCEDURES AGE >17 W/O CC .... | .6121 | 1.6 | 1.9 |
| 163 .... | 06 | SURG | *HERNIA PROCEDURES AGE 0-17 ..... | .6909 | 2.1 | 2.1 |
| 164 .... | 06 | SURG | APPENDECTOMY W COMPLICATED PRINCIPAL DIAG W CC ..... | 2.3960 | 7.8 | 9.0 |
| 165 .... | 06 | SURG | APPENDECTOMY W COMPLICATED PRINCIPAL DIAG W/O CC ..... | 1.2904 | 4.5 | 5.0 |
| 166 .... | 06 | SURG | APPENDECTOMY W/O COMPLICATED PRINCIPAL DIAG W CC ..... | 1.4934 | 4.2 | 5.4 |
| 167 .... | 06 | SURG | APPENDECTOMY W/O COMPLICATED PRINCIPAL DIAG W/O CC ..... | .8753 | 2.2 | 2.6 |
| 168 .... | 03 | SURG | MOUTH PROCEDURES W CC ..... | 1.2982 | 3.6 | 5.2 |
| 169 .... | 03 | SURG | MOUTH PROCEDURES W/O CC ..... | .6964 | 1.8 | 2.3 |
| 170 .... | 06 | SURG | OTHER DIGESTIVE SYSTEM O.R. PROCEDURES W CC ..... | 3.0540 | 9.4 | 12.5 |
| 171 .... | 06 | SURG | OTHER DIGESTIVE SYSTEM O.R. PROCEDURES W/O CC ..... | 1.1716 | 3.8 | 4.8 |
| 172 .... | 06 | MED | DIGESTIVE MALIGNANCY W CC ..... | 1.3985 | 5.9 | 7.6 |
| 173 .... | 06 | MED | DIGESTIVE MALIGNANCY W/O CC ..... | .6933 | 3.0 | 3.9 |
| 174 .... | 06 | MED | G.I. HEMORRHAGE W CC ..... | .9896 | 4.1 | 5.1 |
| 175 .... | 06 | MED | G.I. HEMORRHAGE W/O CC ..... | .5419 | 2.6 | 3.0 |
| 176 .... | 06 | MED | COMPLICATED PEPTIC ULCER ..... | 1.0888 | 4.4 | 5.6 |
| 177 .... | 06 | MED | UNCOMPLICATED PEPTIC ULCER W CC ..... | .8910 | 3.9 | 4.8 |
| 178 .... | 06 | MED | UNCOMPLICATED PEPTIC ULCER W/O CC ..... | .6408 | 2.7 | 3.2 |
| 179 .... | 06 | MED | INFLAMMATORY BOWEL DISEASE ..... | 1.0868 | 5.1 | 6.4 |
| 180 .... | 06 | MED | G.I. OBSTRUCTION W CC ..... | .9565 | 4.6 | 5.7 |
| 181 .... | 06 | MED | G.I. OBSTRUCTION W/O CC ..... | .5237 | 3.0 | 3.5 |
| 182 .... | 06 | MED | ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE >17 W CC. | .7940 | 3.6 | 4.6 |
| 183 .... | 06 | MED | ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE >17 W/O CC. | .5568 | 2.4 | 3.0 |
| 184 .... | 06 | MED | ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE 0-17 | .4141 | 2.5 | 3.0 |
| 185 .... | 03 | MED | DENTAL & ORAL DIS EXCEPT EXTRACTIONS & RESTORATIONS, AGE >17. | .8660 | 3.6 | 4.8 |
| 186 .... | 03 | MED | *DENTAL & ORAL DIS EXCEPT EXTRACTIONS & RESTORATIONS, AGE 0-17. | .3210 | 2.9 | 2.9 |
| 187 .... | 03 | MED | DENTAL EXTRACTIONS & RESTORATIONS ..... | .7868 | 3.2 | 4.2 |
| 188 .... | 06 | MED | OTHER DIGESTIVE SYSTEM DIAGNOSES AGE >17 W CC ..... | 1.1250 | 4.6 | 6.0 |
| 189 .... | 06 | MED | OTHER DIGESTIVE SYSTEM DIAGNOSES AGE >17 W/O CC ..... | .5776 | 2.5 | 3.3 |
| 190 .... | 06 | MED | OTHER DIGESTIVE SYSTEM DIAGNOSES AGE 0-17 ..... | 1.1897 | 4.5 | 7.4 |
| 191 .... | 07 | SURG | PANCREAS, LIVER & SHUNT PROCEDURES W CC ..... | 4.6199 | 12.2 | 15.5 |
| 192 .... | 07 | SURG | PANCREAS, LIVER & SHUNT PROCEDURES W/O CC ..... | 1.8255 | 6.0 | 7.1 |
| 193 .... | 07 | SURG | BILIARY TRACT PROC EXCEPT ONLY CHOLECYST W OR W/O C.D.E. W CC. | 3.5085 | 11.6 | 13.6 |
| 194 .... | 07 | SURG | BILIARY TRACT PROC EXCEPT ONLY CHOLECYST W OR W/O C.D.E. W/O CC. | 1.7294 | 6.3 | 7.3 |
| 195 .... | 07 | SURG | CHOLECYSTECTOMY W C.D.E. W CC ..... | 3.0863 | 9.4 | 10.9 |
| 196 .... | 07 | SURG | CHOLECYSTECTOMY W C.D.E. W/O CC ..... | 1.6111 | 5.3 | 6.0 |
| 197 .... | 07 | SURG | CHOLECYSTECTOMY EXCEPT BY LAPAROSCOPE W/O C.D.E. W CC. | 2.5748 | 8.1 | 9.6 |
| 198 .... | 07 | SURG | CHOLECYSTECTOMY EXCEPT BY LAPAROSCOPE W/O C.D.E. W/O CC. | 1.2062 | 4.2 | 4.7 |
| 199 .... | 07 | SURG | HEPATOBILIARY DIAGNOSTIC PROCEDURE FOR MALIGNANCY ..... | 2.5070 | 8.4 | 10.9 |
| 200 .... | 07 | SURG | HEPATOBILIARY DIAGNOSTIC PROCEDURE FOR NON-MALIGNANCY. | 3.1811 | 8.5 | 12.0 |
| 201 .... | 07 | SURG | OTHER HEPATOBILIARY OR PANCREAS O.R. PROCEDURES ..... | 3.7986 | 12.3 | 15.6 |
| 202 .... | 07 | MED | CIRRHOSIS & ALCOHOLIC HEPATITIS ..... | 1.3291 | 5.5 | 7.0 |
| 203 .... | 07 | MED | MALIGNANCY OF HEPATOBILIARY SYSTEM OR PANCREAS ..... | 1.3627 | 5.7 | 7.3 |
| 204 .... | 07 | MED | DISORDERS OF PANCREAS EXCEPT MALIGNANCY ..... | 1.2047 | 4.9 | 6.2 |
| 205 .... | 07 | MED | DISORDERS OF LIVER EXCEPT MALIG,CIRR,ALC HEPA W CC ..... | 1.2207 | 5.2 | 6.7 |
| 206 .... | 07 | MED | DISORDERS OF LIVER EXCEPT MALIG,CIRR,ALC HEPA W/O CC ..... | .7302 | 3.2 | 4.1 |
| 207 .... | 07 | MED | DISORDERS OF THE BILIARY TRACT W CC ..... | 1.1120 | 4.3 | 5.5 |
| 208 .... | 07 | MED | DISORDERS OF THE BILIARY TRACT W/O CC ..... | .6380 | 2.4 | 3.0 |
| 209 .... | 08 | SURG | MAJOR JOINT & LIMB REATTACHMENT PROCEDURES OF LOWER EXTREMITY. | 1.9917 | 4.6 | 5.1 |
| 210 .... | 08 | SURG | HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE >17 W CC. | 1.7503 | 6.1 | 6.9 |

* Medicare data have been supplemented by data from 19 states for low volume DRGs.
** DRGs 469 and 470 contain cases which could not be assigned to valid DRGs.
Note: Geometric mean is used only to determine payment for transfer cases.
Note: Arithmetic mean is presented for informational purposes only.
Note: Relative weights are based on Medicare patient data and may not be appropriate for other patients.

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

| DRG | MDC | Type | DRG title | Relative weights | Geometric mean LOS | Arithmetic mean LOS |
|---|---|---|---|---|---|---|
| 211 .... | 08 | SURG | HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE >17 W/O CC. | 1.2236 | 4.6 | 5.0 |
| 212 .... | 08 | SURG | *HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE 0-17 ..... | .8457 | 11.1 | 11.1 |
| 213 .... | 08 | SURG | AMPUTATION FOR MUSCULOSKELETAL SYSTEM & CONN TISSUE DISORDERS. | 1.9437 | 7.7 | 10.0 |
| 214 .... | 08 | SURG | NO LONGER VALID ..... | .0000 | .0 | .0 |
| 215 .... | 08 | SURG | NO LONGER VALID ..... | .0000 | .0 | .0 |
| 216 .... | 08 | SURG | BIOPSIES OF MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE. | 2.3172 | 8.5 | 10.9 |
| 217 .... | 08 | SURG | WND DEBRID & SKN GRFT EXCEPT HAND,FOR MUSCSKELET & CONN TISS DIS. | 3.2005 | 11.0 | 15.2 |
| 218 .... | 08 | SURG | LOWER EXTREM & HUMER PROC EXCEPT HIP,FOOT,FEMUR AGE >17 W CC. | 1.5499 | 4.7 | 5.8 |
| 219 .... | 08 | SURG | LOWER EXTREM & HUMER PROC EXCEPT HIP,FOOT,FEMUR AGE >17 W/O CC. | .9950 | 2.8 | 3.3 |
| 220 .... | 08 | SURG | *LOWER EXTREM & HUMER PROC EXCEPT HIP,FOOT,FEMUR AGE 0-17. | .5834 | 5.3 | 5.3 |
| 221 .... | 08 | SURG | NO LONGER VALID ..... | .0000 | .0 | .0 |
| 222 .... | 08 | SURG | NO LONGER VALID ..... | .0000 | .0 | .0 |
| 223 .... | 08 | SURG | MAJOR SHOULDER/ELBOW PROC, OR OTHER UPPER EXTREMITY PROC W CC. | .9723 | 2.1 | 2.9 |
| 224 .... | 08 | SURG | SHOULDER,ELBOW OR FOREARM PROC,EXC MAJOR JOINT PROC, W/O CC. | .7697 | 1.6 | 1.9 |
| 225 .... | 08 | SURG | FOOT PROCEDURES ..... | 1.1164 | 3.8 | 5.3 |
| 226 .... | 08 | SURG | SOFT TISSUE PROCEDURES W CC ..... | 1.5902 | 5.2 | 7.3 |
| 227 .... | 08 | SURG | SOFT TISSUE PROCEDURES W/O CC ..... | .7922 | 2.1 | 2.7 |
| 228 .... | 08 | SURG | MAJOR THUMB OR JOINT PROC,OR OTH HAND OR WRIST PROC W CC. | 1.0906 | 2.7 | 4.0 |
| 229 .... | 08 | SURG | HAND OR WRIST PROC, EXCEPT MAJOR JOINT PROC, W/O CC ..... | .7142 | 1.9 | 2.5 |
| 230 .... | 08 | SURG | LOCAL EXCISION & REMOVAL OF INT FIX DEVICES OF HIP & FEMUR. | 1.3598 | 3.9 | 5.8 |
| 231 .... | 08 | SURG | LOCAL EXCISION & REMOVAL OF INT FIX DEVICES EXCEPT HIP & FEMUR. | 1.4340 | 3.6 | 5.4 |
| 232 .... | 08 | SURG | ARTHROSCOPY ..... | .9532 | 1.8 | 2.9 |
| 233 .... | 08 | SURG | OTHER MUSCULOSKELET SYS & CONN TISS O.R. PROC W CC ..... | 2.0945 | 6.3 | 8.4 |
| 234 .... | 08 | SURG | OTHER MUSCULOSKELET SYS & CONN TISS O.R. PROC W/O CC .. | 1.2097 | 2.7 | 3.6 |
| 235 .... | 08 | MED | FRACTURES OF FEMUR ..... | .7632 | 4.1 | 5.5 |
| 236 .... | 08 | MED | FRACTURES OF HIP & PELVIS ..... | .6889 | 3.9 | 4.9 |
| 237 .... | 08 | MED | SPRAINS, STRAINS, & DISLOCATIONS OF HIP, PELVIS & THIGH ..... | .5325 | 3.0 | 3.6 |
| 238 .... | 08 | MED | OSTEOMYELITIS ..... | 1.4154 | 7.4 | 9.4 |
| 239 .... | 08 | MED | PATHOLOGICAL FRACTURES & MUSCULOSKELETAL & CONN TISS MALIGNANCY. | 1.0032 | 5.4 | 6.7 |
| 240 .... | 08 | MED | CONNECTIVE TISSUE DISORDERS W CC ..... | 1.3692 | 5.6 | 7.3 |
| 241 .... | 08 | MED | CONNECTIVE TISSUE DISORDERS W/O CC ..... | .6315 | 3.3 | 4.0 |
| 242 .... | 08 | MED | SEPTIC ARTHRITIS ..... | 1.0953 | 5.7 | 7.2 |
| 243 .... | 08 | MED | MEDICAL BACK PROBLEMS ..... | .7304 | 4.0 | 4.9 |
| 244 .... | 08 | MED | BONE DISEASES & SPECIFIC ARTHROPATHIES W CC ..... | .7152 | 4.1 | 5.1 |
| 245 .... | 08 | MED | BONE DISEASES & SPECIFIC ARTHROPATHIES W/O CC ..... | .4665 | 2.9 | 3.6 |
| 246 .... | 08 | MED | NON-SPECIFIC ARTHROPATHIES ..... | .5717 | 3.2 | 4.1 |
| 247 .... | 08 | MED | SIGNS & SYMPTOMS OF MUSCULOSKELETAL SYSTEM & CONN TISSUE. | .5587 | 2.8 | 3.6 |
| 248 .... | 08 | MED | TENDONITIS, MYOSITIS & BURSITIS ..... | .8160 | 4.1 | 5.1 |
| 249 .... | 08 | MED | AFTERCARE, MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE. | .6784 | 2.7 | 3.9 |
| 250 .... | 08 | MED | FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE >17 W CC. | .6809 | 3.5 | 4.3 |
| 251 .... | 08 | MED | FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE >17 W/O CC. | .4582 | 2.4 | 2.9 |
| 252 .... | 08 | MED | *FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE 0-17 ..... | .2533 | 1.8 | 1.8 |
| 253 .... | 08 | MED | FX, SPRN, STRN & DISL OF UPARM,LOWLEG EX FOOT AGE >17 W CC. | .7397 | 4.0 | 5.0 |
| 254 .... | 08 | MED | FX, SPRN, STRN & DISL OF UPARM,LOWLEG EX FOOT AGE >17 W/O CC. | .4294 | 2.8 | 3.3 |
| 255 .... | 08 | MED | *FX, SPRN, STRN & DISL OF UPARM,LOWLEG EX FOOT AGE 0-17 | .2951 | 2.9 | 2.9 |
| 256 .... | 08 | MED | OTHER MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE DIAGNOSES. | .8152 | 4.2 | 5.4 |

* Medicare data have been supplemented by data from 19 states for low volume DRGs.
** DRGs 469 and 470 contain cases which could not be assigned to valid DRGs.
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Note: Arithmetic mean is presented for informational purposes only.
Note: Relative weights are based on Medicare patient data and may not be appropriate for other patients.

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

| DRG | MDC | Type | DRG title | Relative weights | Geometric mean LOS | Arithmetic mean LOS |
|---|---|---|---|---|---|---|
| 257 .... | 09 | SURG | TOTAL MASTECTOMY FOR MALIGNANCY W CC ..... | .8783 | 2.2 | 2.8 |
| 258 .... | 09 | SURG | TOTAL MASTECTOMY FOR MALIGNANCY W/O CC ..... | .6954 | 1.7 | 1.9 |
| 259 .... | 09 | SURG | SUBTOTAL MASTECTOMY FOR MALIGNANCY W CC ..... | .8763 | 1.8 | 2.7 |
| 260 .... | 09 | SURG | SUBTOTAL MASTECTOMY FOR MALIGNANCY W/O CC ..... | .6435 | 1.3 | 1.4 |
| 261 .... | 09 | SURG | BREAST PROC FOR NON-MALIGNANCY EXCEPT BIOPSY & LOCAL EXCISION. | .9240 | 1.7 | 2.3 |
| 262 .... | 09 | SURG | BREAST BIOPSY & LOCAL EXCISION FOR NON-MALIGNANCY ..... | .8487 | 3.0 | 4.3 |
| 263 .... | 09 | SURG | SKIN GRAFT &/OR DEBRID FOR SKN ULCER OR CELLULITIS W CC | 2.0570 | 9.1 | 12.3 |
| 264 .... | 09 | SURG | SKIN GRAFT &/OR DEBRID FOR SKN ULCER OR CELLULITIS W/O CC. | 1.1079 | 5.6 | 7.3 |
| 265 .... | 09 | SURG | SKIN GRAFT &/OR DEBRID EXCEPT FOR SKIN ULCER OR CELLULITIS W CC. | 1.6795 | 5.2 | 7.6 |
| 266 .... | 09 | SURG | SKIN GRAFT &/OR DEBRID EXCEPT FOR SKIN ULCER OR CELLULITIS W/O CC. | .8414 | 2.4 | 3.4 |
| 267 .... | 09 | SURG | PERIANAL & PILONIDAL PROCEDURES ..... | .9406 | 3.3 | 4.5 |
| 268 .... | 09 | SURG | SKIN, SUBCUTANEOUS TISSUE & BREAST PLASTIC PROCEDURES | 1.2368 | 2.5 | 3.7 |
| 269 .... | 09 | SURG | OTHER SKIN, SUBCUT TISS & BREAST PROC W CC ..... | 1.7731 | 6.9 | 9.2 |
| 270 .... | 09 | SURG | OTHER SKIN, SUBCUT TISS & BREAST PROC W/O CC ..... | .7806 | 2.5 | 3.6 |
| 271 .... | 09 | MED | SKIN ULCERS ..... | 1.0365 | 6.2 | 7.7 |
| 272 .... | 09 | MED | MAJOR SKIN DISORDERS W CC ..... | 1.0248 | 5.2 | 6.7 |
| 273 .... | 09 | MED | MAJOR SKIN DISORDERS W/O CC ..... | .5638 | 3.4 | 4.2 |
| 274 .... | 09 | MED | MALIGNANT BREAST DISORDERS W CC ..... | 1.1927 | 5.5 | 7.3 |
| 275 .... | 09 | MED | MALIGNANT BREAST DISORDERS W/O CC ..... | .6647 | 3.1 | 4.6 |
| 276 .... | 09 | MED | NON-MALIGANT BREAST DISORDERS ..... | .7033 | 4.0 | 5.0 |
| 277 .... | 09 | MED | CELLULITIS AGE >17 W CC ..... | .8534 | 5.1 | 6.1 |
| 278 .... | 09 | MED | CELLULITIS AGE >17 W/O CC ..... | .5487 | 3.8 | 4.5 |
| 279 .... | 09 | MED | *CELLULITIS AGE 0-17 ..... | .6632 | 4.2 | 4.2 |
| 280 .... | 09 | MED | TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE >17 W CC .... | .6941 | 3.5 | 4.4 |
| 281 .... | 09 | MED | TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE >17 W/O CC | .4593 | 2.5 | 3.1 |
| 282 .... | 09 | MED | *TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE 0-17 ..... | .2565 | 2.2 | 2.2 |
| 283 .... | 09 | MED | MINOR SKIN DISORDERS W CC ..... | .7152 | 3.8 | 4.9 |
| 284 .... | 09 | MED | MINOR SKIN DISORDERS W/O CC ..... | .4204 | 2.5 | 3.2 |
| 285 .... | 10 | SURG | AMPUTAT OF LOWER LIMB FOR ENDOCRINE,NUTRIT,& METABOL DISORDERS. | 2.1297 | 9.1 | 11.4 |
| 286 .... | 10 | SURG | ADRENAL & PITUITARY PROCEDURES ..... | 2.2343 | 5.3 | 6.9 |
| 287 .... | 10 | SURG | SKIN GRAFTS & WOUND DEBRID FOR ENDOC, NUTRIT & METAB DISORDERS. | 1.9569 | 8.9 | 11.7 |
| 288 .... | 10 | SURG | O.R. PROCEDURES FOR OBESITY ..... | 2.1590 | 4.9 | 6.0 |
| 289 .... | 10 | SURG | PARATHYROID PROCEDURES ..... | .9573 | 1.9 | 3.0 |
| 290 .... | 10 | SURG | THYROID PROCEDURES ..... | .8862 | 1.7 | 2.3 |
| 291 .... | 10 | SURG | THYROGLOSSAL PROCEDURES ..... | .5964 | 1.5 | 1.8 |
| 292 .... | 10 | SURG | OTHER ENDOCRINE, NUTRIT & METAB O.R. PROC W CC ..... | 2.6892 | 8.8 | 11.6 |
| 293 .... | 10 | SURG | OTHER ENDOCRINE, NUTRIT & METAB O.R. PROC W/O CC ..... | 1.3059 | 4.3 | 5.9 |
| 294 .... | 10 | MED | DIABETES AGE >35 ..... | .7608 | 3.8 | 4.9 |
| 295 .... | 10 | MED | DIABETES AGE 0-35 ..... | .7457 | 3.1 | 3.9 |
| 296 .... | 10 | MED | NUTRITIONAL & MISC METABOLIC DISORDERS AGE >17 W CC ..... | .8615 | 4.3 | 5.5 |
| 297 .... | 10 | MED | NUTRITIONAL & MISC METABOLIC DISORDERS AGE >17 W/O CC .. | .5047 | 2.9 | 3.5 |
| 298 .... | 10 | MED | NUTRITIONAL & MISC METABOLIC DISORDERS AGE 0-17 ..... | .4155 | 2.3 | 3.0 |
| 299 .... | 10 | MED | INBORN ERRORS OF METABOLISM ..... | .9223 | 4.4 | 5.7 |
| 300 .... | 10 | MED | ENDOCRINE DISORDERS W CC ..... | 1.1243 | 5.3 | 6.6 |
| 301 .... | 10 | MED | ENDOCRINE DISORDERS W/O CC ..... | .6078 | 3.0 | 3.8 |
| 302 .... | 11 | SURG | KIDNEY TRANSPLANT ..... | 3.3278 | 7.9 | 9.3 |
| 303 .... | 11 | SURG | KIDNEY,URETER & MAJOR BLADDER PROCEDURES FOR NEOPLASM. | 2.4884 | 7.5 | 9.0 |
| 304 .... | 11 | SURG | KIDNEY,URETER & MAJOR BLADDER PROC FOR NON-NEOPL W CC. | 2.4618 | 7.4 | 9.7 |
| 305 .... | 11 | SURG | KIDNEY,URETER & MAJOR BLADDER PROC FOR NON-NEOPL W/O CC. | 1.1502 | 3.1 | 3.8 |
| 306 .... | 11 | SURG | PROSTATECTOMY W CC ..... | 1.2988 | 4.3 | 6.2 |
| 307 .... | 11 | SURG | PROSTATECTOMY W/O CC ..... | .6050 | 1.9 | 2.2 |
| 308 .... | 11 | SURG | MINOR BLADDER PROCEDURES W CC ..... | 1.6896 | 4.8 | 6.9 |
| 309 .... | 11 | SURG | MINOR BLADDER PROCEDURES W/O CC ..... | .8936 | 1.8 | 2.3 |
| 310 .... | 11 | SURG | TRANSURETHRAL PROCEDURES W CC ..... | 1.1366 | 3.3 | 4.7 |
| 311 .... | 11 | SURG | TRANSURETHRAL PROCEDURES W/O CC ..... | .5957 | 1.5 | 1.8 |
| 312 .... | 11 | SURG | URETHRAL PROCEDURES, AGE >17 W CC ..... | 1.0782 | 3.3 | 4.8 |
| 313 .... | 11 | SURG | URETHRAL PROCEDURES, AGE >17 W/O CC ..... | .6584 | 1.8 | 2.3 |

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** DRGs 469 and 470 contain cases which could not be assigned to valid DRGs.
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Note: Arithmetic mean is presented for informational purposes only.
Note: Relative weights are based on Medicare patient data and may not be appropriate for other patients.

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

| DRG | MDC | Type | DRG title | Relative weights | Geometric mean LOS | Arithmetic mean LOS |
|---|---|---|---|---|---|---|
| 314 .... | 11 | SURG | *URETHRAL PROCEDURES, AGE 0-17 | .4944 | 2.3 | 2.3 |
| 315 .... | 11 | SURG | OTHER KIDNEY & URINARY TRACT O.R. PROCEDURES | 2.1550 | 4.8 | 8.3 |
| 316 .... | 11 | MED | RENAL FAILURE | 1.3745 | 5.6 | 7.3 |
| 317 .... | 11 | MED | ADMIT FOR RENAL DIALYSIS | .6130 | 2.0 | 2.9 |
| 318 .... | 11 | MED | KIDNEY & URINARY TRACT NEOPLASMS W CC | 1.1723 | 5.1 | 6.6 |
| 319 .... | 11 | MED | KIDNEY & URINARY TRACT NEOPLASMS W/O CC | .5852 | 2.1 | 2.8 |
| 320 .... | 11 | MED | KIDNEY & URINARY TRACT INFECTIONS AGE >17 W CC | .8593 | 4.6 | 5.6 |
| 321 .... | 11 | MED | KIDNEY & URINARY TRACT INFECTIONS AGE >17 W/O CC | .5560 | 3.3 | 3.9 |
| 322 .... | 11 | MED | KIDNEY & URINARY TRACT INFECTIONS AGE 0-17 | .5267 | 3.6 | 4.3 |
| 323 .... | 11 | MED | URINARY STONES W CC, &/OR ESW LITHOTRIPSY | .7970 | 2.5 | 3.3 |
| 324 .... | 11 | MED | URINARY STONES W/O CC | .4422 | 1.6 | 1.9 |
| 325 .... | 11 | MED | KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE >17 W CC | .6336 | 3.1 | 4.0 |
| 326 .... | 11 | MED | KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE >17 W/O CC | .4120 | 2.1 | 2.7 |
| 327 .... | 11 | MED | KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE 0-17 | .3697 | 2.8 | 3.2 |
| 328 .... | 11 | MED | URETHRAL STRICTURE AGE >17 W CC | .7268 | 2.9 | 3.9 |
| 329 .... | 11 | MED | URETHRAL STRICTURE AGE >17 W/O CC | .4458 | 1.6 | 2.0 |
| 330 .... | 11 | MED | *URETHRAL STRICTURE AGE 0-17 | .3185 | 1.6 | 1.6 |
| 331 .... | 11 | MED | OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE >17 W CC | 1.0640 | 4.6 | 6.0 |
| 332 .... | 11 | MED | OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE >17 W/O CC | .6056 | 2.6 | 3.4 |
| 333 .... | 11 | MED | OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE 0-17 | .7907 | 3.9 | 5.3 |
| 334 .... | 12 | SURG | MAJOR MALE PELVIC PROCEDURES W CC | 1.5177 | 4.3 | 5.0 |
| 335 .... | 12 | SURG | MAJOR MALE PELVIC PROCEDURES W/O CC | 1.1047 | 3.1 | 3.3 |
| 336 .... | 12 | SURG | TRANSURETHRAL PROSTATECTOMY W CC | .8630 | 2.8 | 3.6 |
| 337 .... | 12 | SURG | TRANSURETHRAL PROSTATECTOMY W/O CC | .5861 | 1.9 | 2.1 |
| 338 .... | 12 | SURG | TESTES PROCEDURES, FOR MALIGNANCY | 1.2191 | 3.7 | 5.6 |
| 339 .... | 12 | SURG | TESTES PROCEDURES, NON-MALIGNANCY AGE >17 | 1.1555 | 3.3 | 5.0 |
| 340 .... | 12 | SURG | *TESTES PROCEDURES, NON-MALIGNANCY AGE 0-17 | .2830 | 2.4 | 2.4 |
| 341 .... | 12 | SURG | PENIS PROCEDURES | 1.1306 | 2.0 | 3.0 |
| 342 .... | 12 | SURG | CIRCUMCISION AGE >17 | .7852 | 2.5 | 3.3 |
| 343 .... | 12 | SURG | *CIRCUMCISION AGE 0-17 | .1538 | 1.7 | 1.7 |
| 344 .... | 12 | SURG | OTHER MALE REPRODUCTIVE SYSTEM O.R. PROCEDURES FOR MALIGNANCY. | 1.1741 | 1.6 | 2.4 |
| 345 .... | 12 | SURG | OTHER MALE REPRODUCTIVE SYSTEM O.R. PROC EXCEPT FOR MALIGNANCY. | .9149 | 2.7 | 4.0 |
| 346 .... | 12 | MED | MALIGNANCY, MALE REPRODUCTIVE SYSTEM, W CC | 1.0304 | 4.9 | 6.4 |
| 347 .... | 12 | MED | MALIGNANCY, MALE REPRODUCTIVE SYSTEM, W/O CC | .5660 | 2.3 | 3.0 |
| 348 .... | 12 | MED | BENIGN PROSTATIC HYPERTROPHY W CC | .6998 | 3.4 | 4.4 |
| 349 .... | 12 | MED | BENIGN PROSTATIC HYPERTROPHY W/O CC | .4128 | 2.0 | 2.5 |
| 350 .... | 12 | MED | INFLAMMATION OF THE MALE REPRODUCTIVE SYSTEM | .7164 | 3.8 | 4.6 |
| 351 .... | 12 | MED | *STERILIZATION, MALE | .2360 | 1.3 | 1.3 |
| 352 .... | 12 | MED | OTHER MALE REPRODUCTIVE SYSTEM DIAGNOSES | .6868 | 3.0 | 4.2 |
| 353 .... | 13 | SURG | PELVIC EVISCERATION, RADICAL HYSTERECTOMY & RADICAL VULVECTOMY. | 1.8493 | 5.4 | 6.8 |
| 354 .... | 13 | SURG | UTERINE,ADNEXA PROC FOR NON-OVARIAN/ADNEXAL MALIG W CC. | 1.5317 | 5.1 | 6.1 |
| 355 .... | 13 | SURG | UTERINE,ADNEXA PROC FOR NON-OVARIAN/ADNEXAL MALIG W/O CC. | .9033 | 3.1 | 3.3 |
| 356 .... | 13 | SURG | FEMALE REPRODUCTIVE SYSTEM RECONSTRUCTIVE PROCEDURES. | .7440 | 2.0 | 2.3 |
| 357 .... | 13 | SURG | UTERINE & ADNEXA PROC FOR OVARIAN OR ADNEXAL MALIGNANCY. | 2.4380 | 7.5 | 9.2 |
| 358 .... | 13 | SURG | UTERINE & ADNEXA PROC FOR NON-MALIGNANCY W CC | 1.1902 | 3.7 | 4.4 |
| 359 .... | 13 | SURG | UTERINE & ADNEXA PROC FOR NON-MALIGNANCY W/O CC | .8165 | 2.6 | 2.8 |
| 360 .... | 13 | SURG | VAGINA, CERVIX & VULVA PROCEDURES | .8520 | 2.4 | 2.9 |
| 361 .... | 13 | SURG | LAPAROSCOPY & INCISIONAL TUBAL INTERRUPTION | 1.0964 | 2.1 | 3.0 |
| 362 .... | 13 | SURG | *ENDOSCOPIC TUBAL INTERRUPTION | .3017 | 1.4 | 1.4 |
| 363 .... | 13 | SURG | D&C, CONIZATION & RADIO-IMPLANT, FOR MALIGNANCY | .8158 | 2.6 | 3.6 |
| 364 .... | 13 | SURG | D&C, CONIZATION EXCEPT FOR MALIGNANCY | .8170 | 2.9 | 4.1 |
| 365 .... | 13 | SURG | OTHER FEMALE REPRODUCTIVE SYSTEM O.R. PROCEDURES | 2.0008 | 5.8 | 8.1 |
| 366 .... | 13 | MED | MALIGNANCY, FEMALE REPRODUCTIVE SYSTEM W CC | 1.2699 | 5.6 | 7.4 |
| 367 .... | 13 | MED | MALIGNANCY, FEMALE REPRODUCTIVE SYSTEM W/O CC | .5767 | 2.4 | 3.2 |
| 368 .... | 13 | MED | INFECTIONS, FEMALE REPRODUCTIVE SYSTEM | 1.1355 | 5.6 | 7.0 |
| 369 .... | 13 | MED | MENSTRUAL & OTHER FEMALE REPRODUCTIVE SYSTEM DISORDERS. | .5581 | 2.5 | 3.4 |
| 370 .... | 14 | SURG | CESAREAN SECTION W CC | 1.0572 | 4.7 | 6.1 |
| 371 .... | 14 | SURG | CESAREAN SECTION W/O CC | .6845 | 3.3 | 3.7 |

* Medicare data have been supplemented by data from 19 states for low volume DRGs.
** DRGs 469 and 470 contain cases which could not be assigned to valid DRGs.
Note: Geometric mean is used only to determine payment for transfer cases.
Note: Arithmetic mean is presented for informational purposes only.
Note: Relative weights are based on Medicare patient data and may not be appropriate for other patients.

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

| DRG | MDC | Type | DRG title | Relative weights | Geometric mean LOS | Arithmetic mean LOS |
|---|---|---|---|---|---|---|
| 372 .... | 14 | MED | VAGINAL DELIVERY W COMPLICATING DIAGNOSES ..... | .5550 | 2.7 | 3.3 |
| 373 .... | 14 | MED | VAGINAL DELIVERY W/O COMPLICATING DIAGNOSES ..... | .3774 | 2.0 | 2.3 |
| 374 .... | 14 | SURG | VAGINAL DELIVERY W STERILIZATION &/OR D&C ..... | .6835 | 2.5 | 3.1 |
| 375 .... | 14 | SURG | VAGINAL DELIVERY W O.R. PROC EXCEPT STERIL &/OR D&C ..... | .5759 | 2.1 | 2.3 |
| 376 .... | 14 | MED | POSTPARTUM & POST ABORTION DIAGNOSES W/O O.R. PROCEDURE. | .4963 | 2.5 | 3.2 |
| 377 .... | 14 | SURG | POSTPARTUM & POST ABORTION DIAGNOSES W O.R. PROCEDURE. | 1.6892 | 3.8 | 5.6 |
| 378 .... | 14 | MED | ECTOPIC PREGNANCY ..... | .8017 | 2.0 | 2.4 |
| 379 .... | 14 | MED | THREATENED ABORTION ..... | .4521 | 2.4 | 3.6 |
| 380 .... | 14 | MED | ABORTION W/O D&C ..... | .4201 | 1.6 | 2.1 |
| 381 .... | 14 | SURG | ABORTION W D&C, ASPIRATION CURETTAGE OR HYSTEROTOMY | .6628 | 1.8 | 2.5 |
| 382 .... | 14 | MED | FALSE LABOR ..... | .1599 | 1.2 | 1.3 |
| 383 .... | 14 | MED | OTHER ANTEPARTUM DIAGNOSES W MEDICAL COMPLICATIONS .. | .4915 | 2.8 | 3.8 |
| 384 .... | 14 | MED | OTHER ANTEPARTUM DIAGNOSES W/O MEDICAL COMPLICATIONS. | .3626 | 1.6 | 2.1 |
| 385 .... | 15 | MED | *NEONATES, DIED OR TRANSFERRED TO ANOTHER ACUTE CARE FACILITY. | 1.3743 | 1.8 | 1.8 |
| 386 .... | 15 | MED | *EXTREME IMMATURITY OR RESPIRATORY DISTRESS SYNDROME, NEONATE. | 4.5319 | 17.9 | 17.9 |
| 387 .... | 15 | MED | *PREMATURITY W MAJOR PROBLEMS ..... | 3.0952 | 13.3 | 13.3 |
| 388 .... | 15 | MED | *PREMATURITY W/O MAJOR PROBLEMS ..... | 1.8676 | 8.6 | 8.6 |
| 389 .... | 15 | MED | FULL TERM NEONATE W MAJOR PROBLEMS ..... | 3.1794 | 9.3 | 16.0 |
| 390 .... | 15 | MED | NEONATE W OTHER SIGNIFICANT PROBLEMS ..... | 1.1253 | 3.5 | 4.3 |
| 391 .... | 15 | MED | *NORMAL NEWBORN ..... | .1524 | 3.1 | 3.1 |
| 392 .... | 16 | SURG | SPLENECTOMY AGE >17 ..... | 3.3892 | 8.3 | 10.8 |
| 393 .... | 16 | SURG | *SPLENECTOMY AGE 0-17 ..... | 1.3462 | 9.1 | 9.1 |
| 394 .... | 16 | SURG | OTHER O.R. PROCEDURES OF THE BLOOD AND BLOOD FORMING ORGANS. | 1.8231 | 5.1 | 8.1 |
| 395 .... | 16 | MED | RED BLOOD CELL DISORDERS AGE >17 ..... | .8192 | 3.5 | 4.7 |
| 396 .... | 16 | MED | RED BLOOD CELL DISORDERS AGE 0-17 ..... | 1.0407 | 3.9 | 5.0 |
| 397 .... | 16 | MED | COAGULATION DISORDERS ..... | 1.2671 | 4.2 | 5.6 |
| 398 .... | 16 | MED | RETICULOENDOTHELIAL & IMMUNITY DISORDERS W CC ..... | 1.3082 | 5.1 | 6.4 |
| 399 .... | 16 | MED | RETICULOENDOTHELIAL & IMMUNITY DISORDERS W/O CC ..... | .6675 | 3.0 | 3.7 |
| 400 .... | 17 | SURG | LYMPHOMA & LEUKEMIA W MAJOR O.R. PROCEDURE ..... | 2.9346 | 7.4 | 10.5 |
| 401 .... | 17 | SURG | LYMPHOMA & NON-ACUTE LEUKEMIA W OTHER O.R. PROC W CC | 2.9905 | 9.9 | 12.8 |
| 402 .... | 17 | SURG | LYMPHOMA & NON-ACUTE LEUKEMIA W OTHER O.R. PROC W/O CC. | 1.1594 | 3.1 | 4.4 |
| 403 .... | 17 | MED | LYMPHOMA & NON-ACUTE LEUKEMIA W CC ..... | 1.8579 | 6.8 | 9.1 |
| 404 .... | 17 | MED | LYMPHOMA & NON-ACUTE LEUKEMIA W/O CC ..... | .8718 | 3.4 | 4.6 |
| 405 .... | 17 | MED | *ACUTE LEUKEMIA W/O MAJOR O.R. PROCEDURE AGE 0-17 ..... | 1.9086 | 4.9 | 4.9 |
| 406 .... | 17 | SURG | MYELOPROLIF DISORD OR POORLY DIFF NEOPL W MAJ O.R.PROC W CC. | 2.9939 | 8.4 | 11.1 |
| 407 .... | 17 | SURG | MYELOPROLIF DISORD OR POORLY DIFF NEOPL W MAJ O.R.PROC W/O CC. | 1.2426 | 3.8 | 4.7 |
| 408 .... | 17 | SURG | MYELOPROLIF DISORD OR POORLY DIFF NEOPL W OTHER O.R.PROC. | 2.2144 | 6.0 | 9.2 |
| 409 .... | 17 | MED | RADIOTHERAPY ..... | 1.1575 | 4.9 | 6.3 |
| 410 .... | 17 | MED | CHEMOTHERAPY W/O ACUTE LEUKEMIA AS SECONDARY DIAGNOSIS. | .9991 | 3.3 | 4.1 |
| 411 .... | 17 | MED | HISTORY OF MALIGNANCY W/O ENDOSCOPY ..... | .4481 | 1.8 | 2.3 |
| 412 .... | 17 | MED | HISTORY OF MALIGNANCY W ENDOSCOPY ..... | .5958 | 1.9 | 2.4 |
| 413 .... | 17 | MED | OTHER MYELOPROLIF DIS OR POORLY DIFF NEOPL DIAG W CC ... | 1.3894 | 6.1 | 7.8 |
| 414 .... | 17 | MED | OTHER MYELOPROLIF DIS OR POORLY DIFF NEOPL DIAG W/O CC | .7418 | 3.5 | 4.6 |
| 415 .... | 18 | SURG | O.R. PROCEDURE FOR INFECTIOUS & PARASITIC DISEASES ..... | 3.9067 | 12.6 | 16.3 |
| 416 .... | 18 | MED | SEPTICEMIA AGE >17 ..... | 1.6226 | 6.4 | 8.1 |
| 417 .... | 18 | MED | SEPTICEMIA AGE 0-17 ..... | .8915 | 4.4 | 5.4 |
| 418 .... | 18 | MED | POSTOPERATIVE & POST-TRAUMATIC INFECTIONS ..... | 1.0493 | 5.3 | 6.6 |
| 419 .... | 18 | MED | FEVER OF UNKNOWN ORIGIN AGE >17 W CC ..... | .8618 | 4.0 | 5.0 |
| 420 .... | 18 | MED | FEVER OF UNKNOWN ORIGIN AGE >17 W/O CC ..... | .6112 | 3.0 | 3.6 |
| 421 .... | 18 | MED | VIRAL ILLNESS AGE >17 ..... | .6640 | 3.2 | 3.9 |
| 422 .... | 18 | MED | VIRAL ILLNESS & FEVER OF UNKNOWN ORIGIN AGE 0-17 ..... | .4757 | 2.6 | 3.1 |
| 423 .... | 18 | MED | OTHER INFECTIOUS & PARASITIC DISEASES DIAGNOSES ..... | 1.8365 | 6.7 | 9.0 |
| 424 .... | 19 | SURG | O.R. PROCEDURE W PRINCIPAL DIAGNOSES OF MENTAL ILLNESS | 2.4518 | 10.9 | 15.9 |
| 425 .... | 19 | MED | ACUTE ADJUSTMENT REACTION & PSYCHOSOCIAL DYSFUNCTION. | .6789 | 3.2 | 4.2 |

* Medicare data have been supplemented by data from 19 states for low volume DRGs.
** DRGs 469 and 470 contain cases which could not be assigned to valid DRGs.
Note: Geometric mean is used only to determine payment for transfer cases.
Note: Arithmetic mean is presented for informational purposes only.
Note: Relative weights are based on Medicare patient data and may not be appropriate for other patients.

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

| DRG | MDC | Type | DRG title | Relative weights | Geometric mean LOS | Arithmetic mean LOS |
|---|---|---|---|---|---|---|
| 426 .... | 19 | MED | DEPRESSIVE NEUROSES | .5261 | 3.5 | 4.7 |
| 427 .... | 19 | MED | NEUROSES EXCEPT DEPRESSIVE | .5348 | 3.5 | 5.0 |
| 428 .... | 19 | MED | DISORDERS OF PERSONALITY & IMPULSE CONTROL | .7242 | 5.0 | 7.8 |
| 429 .... | 19 | MED | ORGANIC DISTURBANCES & MENTAL RETARDATION | .8367 | 5.2 | 6.9 |
| 430 .... | 19 | MED | PSYCHOSES | .7676 | 6.7 | 8.9 |
| 431 .... | 19 | MED | CHILDHOOD MENTAL DISORDERS | .6416 | 5.1 | 7.1 |
| 432 .... | 19 | MED | OTHER MENTAL DISORDER DIAGNOSES | .7100 | 3.4 | 5.1 |
| 433 .... | 20 | MED | ALCOHOL/DRUG ABUSE OR DEPENDENCE, LEFT AMA | .2888 | 2.3 | 3.2 |
| 434 .... | 20 | MED | NO LONGER VALID | .0000 | .0 | .0 |
| 435 .... | 20 | MED | NO LONGER VALID | .0000 | .0 | .0 |
| 436 .... | 20 | MED | NO LONGER VALID | .0000 | .0 | .0 |
| 437 .... | 20 | MED | NO LONGER VALID | .0000 | .0 | .0 |
| 438 .... | 20 | | NO LONGER VALID | .0000 | .0 | .0 |
| 439 .... | 21 | SURG | SKIN GRAFTS FOR INJURIES | 1.9332 | 6.7 | 9.5 |
| 440 .... | 21 | SURG | WOUND DEBRIDEMENTS FOR INJURIES | 2.0806 | 7.2 | 10.3 |
| 441 .... | 21 | SURG | HAND PROCEDURES FOR INJURIES | .9295 | 2.3 | 3.3 |
| 442 .... | 21 | SURG | OTHER O.R. PROCEDURES FOR INJURIES W CC | 2.5304 | 6.8 | 9.6 |
| 443 .... | 21 | SURG | OTHER O.R. PROCEDURES FOR INJURIES W/O CC | .9920 | 2.7 | 3.6 |
| 444 .... | 21 | MED | TRAUMATIC INJURY AGE >17 W CC | .7277 | 3.4 | 4.4 |
| 445 .... | 21 | MED | TRAUMATIC INJURY AGE >17 W/O CC | .4716 | 2.4 | 3.0 |
| 446 .... | 21 | MED | *TRAUMATIC INJURY AGE 0-17 | .2959 | 2.4 | 2.4 |
| 447 .... | 21 | MED | ALLERGIC REACTIONS AGE >17 | .4825 | 1.8 | 2.5 |
| 448 .... | 21 | MED | *ALLERGIC REACTIONS AGE 0-17 | .0973 | 2.9 | 2.9 |
| 449 .... | 21 | MED | POISONING & TOXIC EFFECTS OF DRUGS AGE >17 W CC | .8309 | 2.8 | 4.0 |
| 450 .... | 21 | MED | POISONING & TOXIC EFFECTS OF DRUGS AGE >17 W/O CC | .4139 | 1.6 | 2.0 |
| 451 .... | 21 | MED | *POISONING & TOXIC EFFECTS OF DRUGS AGE 0-17 | .2627 | 2.1 | 2.1 |
| 452 .... | 21 | MED | COMPLICATIONS OF TREATMENT W CC | 1.0122 | 3.8 | 5.2 |
| 453 .... | 21 | MED | COMPLICATIONS OF TREATMENT W/O CC | .4980 | 2.2 | 2.8 |
| 454 .... | 21 | MED | OTHER INJURY, POISONING & TOXIC EFFECT DIAG W CC | .8692 | 3.4 | 4.9 |
| 455 .... | 21 | MED | OTHER INJURY, POISONING & TOXIC EFFECT DIAG W/O CC | .4630 | 1.9 | 2.6 |
| 456 .... | 22 | | NO LONGER VALID | .0000 | .0 | .0 |
| 457 .... | 22 | MED | NO LONGER VALID | .0000 | .0 | .0 |
| 458 .... | 22 | SURG | NO LONGER VALID | .0000 | .0 | .0 |
| 459 .... | 22 | SURG | NO LONGER VALID | .0000 | .0 | .0 |
| 460 .... | 22 | MED | NO LONGER VALID | .0000 | .0 | .0 |
| 461 .... | 23 | SURG | O.R. PROC W DIAGNOSES OF OTHER CONTACT W HEALTH SERVICES. | 1.1963 | 2.5 | 4.6 |
| 462 .... | 23 | MED | REHABILITATION | 1.2125 | 10.4 | 12.3 |
| 463 .... | 23 | MED | SIGNS & SYMPTOMS W CC | .6800 | 3.4 | 4.3 |
| 464 .... | 23 | MED | SIGNS & SYMPTOMS W/O CC | .4628 | 2.5 | 3.1 |
| 465 .... | 23 | MED | AFTERCARE W HISTORY OF MALIGNANCY AS SECONDARY DIAGNOSIS. | .5445 | 2.1 | 3.1 |
| 466 .... | 23 | MED | AFTERCARE W/O HISTORY OF MALIGNANCY AS SECONDARY DIAGNOSIS. | .6416 | 2.3 | 3.8 |
| 467 .... | 23 | MED | OTHER FACTORS INFLUENCING HEALTH STATUS | .4585 | 2.1 | 3.1 |
| 468 .... | | | EXTENSIVE O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS. | 3.8756 | 11.4 | 14.7 |
| 469 .... | | | **PRINCIPAL DIAGNOSIS INVALID AS DISCHARGE DIAGNOSIS | .0000 | .0 | .0 |
| 470 .... | | | **UNGROUPABLE | .0000 | .0 | .0 |
| 471 .... | 08 | SURG | BILATERAL OR MULTIPLE MAJOR JOINT PROCS OF LOWER EXTREMITY. | 3.0067 | 5.0 | 5.7 |
| 472 .... | 22 | SURG | NO LONGER VALID | .0000 | .0 | .0 |
| 473 .... | 17 | SURG | ACUTE LEUKEMIA W/O MAJOR O.R. PROCEDURE AGE >17 | 3.9324 | 9.8 | 15.1 |
| 474 .... | 04 | SURG | NO LONGER VALID | .0000 | .0 | .0 |
| 475 .... | 04 | MED | RESPIRATORY SYSTEM DIAGNOSIS WITH VENTILATOR SUPPORT | 3.9253 | 10.0 | 12.7 |
| 476 .... | | SURG | PROSTATIC O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS. | 2.2915 | 10.0 | 12.3 |
| 477 .... | | SURG | NON-EXTENSIVE O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS. | 1.9568 | 6.7 | 9.3 |
| 478 .... | 05 | SURG | OTHER VASCULAR PROCEDURES W CC | 2.4161 | 5.9 | 8.2 |
| 479 .... | 05 | SURG | OTHER VASCULAR PROCEDURES W/O CC | 1.3900 | 2.8 | 3.6 |
| 480 .... | PRE | SURG | LIVER TRANSPLANT | 10.9812 | 18.1 | 23.9 |
| 481 .... | PRE | SURG | BONE MARROW TRANSPLANT | 8.0438 | 23.6 | 25.8 |
| 482 .... | PRE | SURG | TRACHEOSTOMY FOR FACE,MOUTH & NECK DIAGNOSES | 3.8583 | 11.4 | 14.3 |
| 483 .... | PRE | SURG | TRACHEOSTOMY EXCEPT FOR FACE,MOUTH & NECK DIAGNOSES | 15.4629 | 34.2 | 41.5 |
| 484 .... | 24 | SURG | CRANIOTOMY FOR MULTIPLE SIGNIFICANT TRAUMA | 5.2963 | 11.7 | 14.9 |

* Medicare data have been supplemented by data from 19 states for low volume DRGs.
** DRGs 469 and 470 contain cases which could not be assigned to valid DRGs.
Note: Geometric mean is used only to determine payment for transfer cases.
Note: Arithmetic mean is presented for informational purposes only.
Note: Relative weights are based on Medicare patient data and may not be appropriate for other patients.

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

| DRG | MDC | Type | DRG title | Relative weights | Geometric mean LOS | Arithmetic mean LOS |
|---|---|---|---|---|---|---|
| 485 .... | 24 | SURG | LIMB REATTACHMENT, HIP AND FEMUR PROC FOR MULTIPLE SIGNIFICANT TRA. | 3.1724 | 8.5 | 10.5 |
| 486 .... | 24 | SURG | OTHER O.R. PROCEDURES FOR MULTIPLE SIGNIFICANT TRAUMA | 5.2888 | 11.0 | 14.3 |
| 487 .... | 24 | MED | OTHER MULTIPLE SIGNIFICANT TRAUMA | 1.9585 | 6.3 | 8.2 |
| 488 .... | 25 | SURG | HIV W EXTENSIVE O.R. PROCEDURE | 5.1965 | 14.9 | 19.7 |
| 489 .... | 25 | MED | HIV W MAJOR RELATED CONDITION | 1.8948 | 7.0 | 9.4 |
| 490 .... | 25 | MED | HIV W OR W/O OTHER RELATED CONDITION | 1.0584 | 4.3 | 5.8 |
| 491 .... | 08 | SURG | MAJOR JOINT & LIMB REATTACHMENT PROCEDURES OF UPPER EXTREMITY. | 1.6353 | 3.0 | 3.5 |
| 492 .... | 17 | MED | CHEMOTHERAPY W ACUTE LEUKEMIA AS SECONDARY DIAGNOSIS. | 4.8886 | 13.6 | 19.0 |
| 493 .... | 07 | SURG | LAPAROSCOPIC CHOLECYSTECTOMY W/O C.D.E. W CC | 1.8411 | 4.9 | 6.3 |
| 494 .... | 07 | SURG | LAPAROSCOPIC CHOLECYSTECTOMY W/O C.D.E. W/O CC | .9754 | 1.9 | 2.4 |
| 495 .... | PRE | SURG | LUNG TRANSPLANT | 8.8252 | 13.8 | 16.2 |
| 496 .... | 08 | SURG | COMBINED ANTERIOR/POSTERIOR SPINAL FUSION | 5.7281 | 8.6 | 10.5 |
| 497 .... | 08 | SURG | SPINAL FUSION EXCEPT CERVICAL W CC | 3.2324 | 5.8 | 6.9 |
| 498 .... | 08 | SURG | SPINAL FUSION EXCEPT CERVICAL W/O CC | 2.3026 | 3.9 | 4.3 |
| 499 .... | 08 | SURG | BACK & NECK PROCEDURES EXCEPT SPINAL FUSION W CC | 1.4507 | 3.8 | 5.0 |
| 500 .... | 08 | SURG | BACK & NECK PROCEDURES EXCEPT SPINAL FUSION W/O CC | .9385 | 2.2 | 2.6 |
| 501 .... | 08 | SURG | KNEE PROCEDURES W PDX OF INFECTION W CC | 2.7485 | 9.8 | 11.9 |
| 502 .... | 08 | SURG | KNEE PROCEDURES W PDX OF INFECTION W/O CC | 1.5544 | 5.9 | 6.9 |
| 503 .... | 08 | SURG | KNEE PROCEDURES W/O PDX OF INFECTION | 1.2291 | 3.3 | 4.2 |
| 504 .... | 22 | SURG | EXTENSIVE 3RD DEGREE BURNS W SKIN GRAFT | 14.1729 | 28.8 | 34.7 |
| 505 .... | 22 | MED | EXTENSIVE 3RD DEGREE BURNS W/O SKIN GRAFT | 1.4994 | 2.0 | 3.4 |
| 506 .... | 22 | SURG | FULL THICKNESS BURN W SKIN GRAFT OR INHAL INJ W CC OR SIG TRAUMA. | 4.9233 | 15.7 | 19.9 |
| 507 .... | 22 | SURG | FULL THICKNESS BURN W SKIN GRFT OR INHAL INJ W/O CC OR SIG TRAUMA. | 1.8583 | 7.3 | 9.3 |
| 508 .... | 22 | MED | FULL THICKNESS BURN W/O SKIN GRFT OR INHAL INJ W CC OR SIG TRAUMA. | 1.2967 | 6.1 | 8.3 |
| 509 .... | 22 | MED | FULL THICKNESS BURN W/O SKIN GRFT OR INH INJ W/O CC OR SIG TRAUMA. | .7265 | 3.7 | 4.9 |
| 510 .... | 22 | MED | NON-EXTENSIVE BURNS W CC OR SIGNIFICANT TRAUMA | 1.3681 | 5.8 | 8.0 |
| 511 .... | 22 | MED | NON-EXTENSIVE BURNS W/O CC OR SIGNIFICANT TRAUMA | .7656 | 3.6 | 5.2 |
| 512 .... | PRE | SURG | SIMULTANEOUS PANCREAS/KIDNEY TRANSPLANT | 5.7813 | 12.7 | 14.9 |
| 513 .... | PRE | SURG | PANCREAS TRANSPLANT | 5.8400 | 9.7 | 11.1 |
| 514 .... | 05 | SURG | CARDIAC DEFIBRILLATOR IMPLANT W CARDIAC CATH | 6.3663 | 6.7 | 8.8 |
| 515 .... | 05 | SURG | CARDIAC DEFIBRILLATOR IMPLANT W/O CARDIAC CATH | 4.9905 | 4.2 | 6.7 |
| 516 .... | 05 | SURG | PERCUTANEOUS CARDIOVASC PROC W AMI | 2.7475 | 4.1 | 5.0 |
| 517 .... | 05 | SURG | PERC CARDIO PROC W CORONARY ARTERY STENT W/O AMI | 2.1379 | 1.9 | 2.7 |
| 518 .... | 05 | SURG | PERC CARDIO PROC W/O CORONARY ARTERY STENT OR AMI | 1.6989 | 2.5 | 3.7 |
| 519 .... | 08 | SURG | CERVICAL SPINAL FUSION W CC | 2.3249 | 3.8 | 5.6 |
| 520 .... | 08 | SURG | CERVICAL SPINAL FUSION W/O CC | 1.4195 | 1.7 | 2.2 |
| 521 .... | 20 | MED | ALCOHOL/DRUG ABUSE OR DEPENDENCE W CC | .7355 | 5.0 | 6.4 |
| 522 .... | 20 | MED | ALC/DRUG ABUSE OR DEPEND W REHABILITATION THERAPY W/O CC. | .6249 | 8.6 | 10.4 |
| 523 .... | 20 | MED | ALC/DRUG ABUSE OR DEPEND W/O REHABILITATION THERAPY W/O CC. | .3997 | 3.5 | 4.3 |

*Medicare data have been supplemented by data from 19 states for low volume DRGs.
**DRGs 469 and 470 contain cases which could not be assigned to valid DRGs.
Note: Geometric mean is used only to determine payment for transfer cases.
Note: Arithmetic mean is presented for informational purposes only.
Note: Relative weights are based on Medicare patient data and may not be appropriate for other patients.

TABLE 6A.—NEW DIAGNOSIS CODES

| Diagnosis Code | Description | CC | MDC | DRG |
|---|---|---|---|---|
| 256.31 | Premature menopause | N | 13 | 358, 359, 369 |
| 256.39 | Other ovarian failure | N | 13 | 358, 359, 369 |
| 277.7 | Dysmetabolic Syndrome X | N | 10 | 299 |
| 464.00 | Acute laryngitis, without mention of obstruction | N | 3 pre | 68, 69, 70 482 |
| 464.01 | Acute laryngitis, with obstruction | N | 3 pre | 68, 69, 70 482 |

TABLE 6A.—NEW DIAGNOSIS CODES—Continued

| Diagnosis Code | Description | CC | MDC | DRG |
|---|---|---|---|---|
| 464.50 | Unspecified supraglottis, without mention of obstruction | N | 3 | 68, 69, 70 |
| | | | pre | 482 |
| 464.51 | Unspecified supraglottis, with obstruction | N | 3 | 68, 69, 70 |
| | | | pre | 482 |
| 521.00 | Unspecified dental caries | N | 3 | 185, 186, 187 |
| | | | pre | 482 |
| 521.01 | Dental caries limited to enamel | N | 3 | 185, 186, 187 |
| | | | pre | 482 |
| 521.02 | Dental caries extending into dentine | N | 3 | 185, 186, 187 |
| | | | pre | 482 |
| 521.03 | Dental caries extending into pulp | N | 3 | 185, 186, 187 |
| | | | pre | 482 |
| 521.04 | Arrested dental caries | N | 3 | 185, 186, 187 |
| | | | pre | 482 |
| 521.05 | Odontoclasia | N | 3 | 185, 186, 187 |
| | | | pre | 482 |
| 521.09 | Other dental caries | N | 3 | 185, 186, 187 |
| | | | pre | 482 |
| 525.10 | Unspecified acquired absence of teeth | N | 3 | 185, 186, 187 |
| | | | pre | 482 |
| 525.11 | Loss of teeth due to trauma | N | 3 | 185, 186, 187 |
| | | | pre | 482 |
| 525.12 | Loss of teeth due to periodontal disease | N | 3 | 185, 186, 187 |
| | | | pre | 482 |
| 525.13 | Loss of teeth due to caries | N | 3 | 185, 186, 187 |
| | | | pre | 482 |
| 525.19 | Other loss of teeth | N | 3 | 185, 186, 187 |
| | | | pre | 482 |
| 530.12 | Acute esophagitis | N | 6 | 182, 183, 184 |
| 564.00 | Unspecified constipation | N | 6 | 182, 183, 184 |
| 564.01 | Slow transit constipation | N | 6 | 182, 183, 184 |
| 564.02 | Outlet dysfunction constipation | N | 6 | 182, 183, 184 |
| 564.09 | Other constipation | N | 6 | 182, 183, 184 |
| 602.3 | Dysplasia of prostate | N | 12 | 352 |
| 608.82 | Hematospermia | N | 12 | 352 |
| 608.87 | Retrograde ejaculation | N | 12 | 352 |
| 692.76 | Sunburn of second degree | N | 9 | 283, 284 |
| 692.77 | Sunburn of third degree | N | 9 | 283, 284 |
| 718.70 | Developmental dislocation of joint, site unspecified | N | 8 | 256 |
| 718.71 | Developmental dislocation of joint, shoulder region | N | 8 | 256 |
| 718.72 | Developmental dislocation of joint, upper arm | N | 8 | 256 |
| 718.73 | Developmental dislocation of joint, forearm | N | 8 | 256 |
| 718.74 | Developmental dislocation of joint, hand | N | 8 | 256 |
| 718.75 | Developmental dislocation of joint, pelvic region and thigh | N | 8 | 256 |
| 718.76 | Developmental dislocation of joint, lower leg | N | 8 | 256 |
| 718.77 | Developmental dislocation of joint, ankle and foot | N | 8 | 256 |
| 718.78 | Developmental dislocation of joint, other specified sites | N | 8 | 256 |
| 718.79 | Developmental dislocation of joint, multiple sites | N | 8 | 256 |
| 733.93 | Stress fracture of tibia or fibula | Y | 8 | 239 |
| 733.94 | Stress fracture of the metatarsals | Y | 8 | 239 |
| 733.95 | Stress fracture of other bone | Y | 8 | 239 |
| 772.10 | Intraventricular hemorrhage, unspecified grade | Y | 15 | 387, 389 |
| 772.11 | Intraventricular hemorrhage, Grade I | Y | 15 | 387, 389 |
| 772.12 | Intraventricular hemorrhage, Grade II | Y | 15 | 387, 389 |
| 772.13 | Intraventricular hemorrhage, Grade III | Y | 15 | 387, 389 |
| 772.14 | Intraventricular hemorrhage, Grade IV | Y | 15 | 387, 389 |
| 779.7 | Perventricular leukomalacia | Y | 15 | 387, 389 |
| 793.80 | Unspecified abnormal mammogram | N | 9 | 276 |
| 793.81 | Mammographic microcalcification | N | 9 | 276 |
| 793.89 | Other abnormal findings on radiological examination breast | N | 9 | 276 |
| 840.7 | Superior glenoid labrum lesions (SLAP) | N | 8 | 253, 254, 255 |
| | | | 24 | 487 |
| 997.71 | Vascular complications of mesenteric artery | Y | 6 | 188, 189, 190 |
| | | | 15 | 387, 389 |
| 997.72 | Vascular complications of renal artery | Y | 11 | 331, 332, 333 |
| | | | 15 | 387, 389 |
| 997.79 | Vascular complications of other vessels | Y | 5 | 130, 131 |
| | | | 15 | 387, 389 |
| V10.53 | Personal history of malignant neoplasm, renal pelvis | N | 17 | 411, 412 |
| V45.84 | Dental restoration status | N | 23 | 467 |
| V49.82 | Dental sealant status | N | 23 | 467 |

TABLE 6A.—NEW DIAGNOSIS CODES—Continued

| Diagnosis Code | Description | CC | MDC | DRG |
|---|---|---|---|---|
| V83.01 | Asymptomatic hemophilia A carrier | N | 23 | 467 |
| V83.02 | Symptomatic hemophilia A carrier | N | 23 | 467 |

TABLE 6B.—NEW PROCEDURE CODES

| Procedure Code | Description | OR | MDC | DRG |
|---|---|---|---|---|
| 37.28 | Intracardiac echocardiography | N | | |
| 44.32 | Percutaneous [endoscopic] gastrojejunostomy | Y | 6 | 154–156 |
| | | | 7 | 201 |
| | | | 10 | 288 |
| | | | 17 | 400, 406, 407 |
| 67.51 | Transabdominal cerclage of cervix | Y | 13 | 360 |
| | | | 14 | 372, 373 |
| | | | 21 | 442, 443 |
| | | | 24 | 486 |
| 67.59 | Other repair of internal cervical os | Y | 13 | 360 |
| | | | 14 | 372, 373 |
| | | | 21 | 442, 443 |
| | | | 24 | 486 |
| 75.38 | Fetal pulse oximetry | N | | |
| 81.30 | Refusion of spine, not otherwise specified | Y | 1 | 4 |
| | | | 8 | 497, 498 |
| | | | 21 | 442, 443 |
| | | | 24 | 486 |
| 81.31 | Refusion of Atlas-axis spine | Y | 1 | 4 |
| | | | 8 | 497, 498 |
| | | | 21 | 442, 443 |
| | | | 24 | 486 |
| 81.32 | Refusion of other cervical spine, anterior technique | Y | 1 | 4 |
| | | | 8 | 496, 519, 520 |
| | | | 21 | 442, 443 |
| | | | 24 | 486 |
| 81.33 | Refusion of other cervical spine, posterior technique | Y | 1 | 4 |
| | | | 8 | 496, 519, 520 |
| | | | 21 | 442, 443 |
| | | | 24 | 486 |
| 81.34 | Refusion of dorsal and dorsolumbar spine, anterior technique | Y | 1 | 4 |
| | | | 8 | 496, 497, 498 |
| | | | 21 | 442, 443 |
| | | | 24 | 486 |
| 81.35 | Refusion of dorsal and dorsolumbar spine, posterior technique | Y | 1 | 4 |
| | | | 8 | 496, 497, 498 |
| | | | 21 | 442, 443 |
| | | | 24 | 486 |
| 81.36 | Refusion of lumbar and lumbosacral spine, anterior technique | Y | 1 | 4 |
| | | | 8 | 496, 497, 498 |
| | | | 21 | 442, 443 |
| | | | 24 | 486 |
| 81.37 | Refusion of lumbar and lumbosacral spine, lateral transverse process technique. | Y | 1 | 4 |
| | | | 8 | 496, 497, 498 |
| | | | 21 | 442, 443 |
| | | | 24 | 486 |
| 81.38 | Refusion of lumbar and lumbosacral spine, posterior technique | Y | 1 | 4 |
| | | | 8 | 496, 497, 498 |
| | | | 21 | 442, 443 |
| | | | 24 | 486 |
| 81.39 | Refusion of spine, not elsewhere classified | Y | 1 | 4 |
| | | | 8 | 497, 498 |
| | | | 21 | 442, 443 |
| | | | 24 | 486 |
| 97.44 | Nonoperative removal of heart assist system | N | | |

TABLE 6C.—INVALID DIAGNOSIS CODES

| Diagnosis Code | Description | CC | MDC | DRG |
|---|---|---|---|---|
| 256.3 | Other ovarian failure | N | 13 | 358, 359, 369 |
| 464.0 | Acute laryngitis | N | 3 | 68, 69, 70 |
| | | | pre | 482 |
| 521.0 | Dental caries | N | 3 | 185, 186, 187 |
| | | | pre | 482 |
| 525.1 | Loss of teeth due to accident, extraction, or local periodontal disease | N | 3 | 185, 186, 187 |
| | | | pre | 482 |
| 564.0 | Constipation | N | 6 | 182, 183, 184 |
| 772.1 | Intraventricular hemorrhage | Y | 15 | 387, 389 |
| 793.8 | Nonspecific abnormal findings on radiological and other examinations of body structure, breast. | N | 9 | 276 |

TABLE 6D.—INVALID PROCEDURE CODES

| Procedure Code | Description | OR | MDC | DRG |
|---|---|---|---|---|
| 67.5 | Repair of internal cervical os | Y | 13 | 360 |
| | | | 14 | 372, 373 |
| | | | 21 | 442, 443 |
| | | | 24 | 486 |
| 81.09 | Refusion of spine, any level or technique | Y | 1 | 4 |
| | | | 8 | 497, 498 |
| | | | 21 | 442, 443 |
| | | | 24 | 486 |

TABLE 6E.—REVISED DIAGNOSIS CODE TITLES

| Diagnosis Code | Description | CC | MDC | DRG |
|---|---|---|---|---|
| 411.81 | Acute coronary occlusion without myocardial infarction | Y | 5 | 124, 140 |
| 493.00 | Extrinsic asthma without mention of status asthmaticus or acute exacerbation or unspecified. | N | 4 | 96, 97, 98 |
| 493.10 | Intrinsic asthma without mention of status asthmaticus or acute exacerbation or unspecified. | N | 4 | 96, 97, 98 |
| 493.20 | Chronic obstructive asthma without mention of status asthmaticus or acute exacerbation or unspecified. | Y | 4 | 88 |
| 493.90 | Asthma, unspecified without mention of status asthmaticus or acute exacerbation or unspecified. | N | 4 | 96, 97, 98 |
| V70.7 | Examination of participant in clinical trial | N | 23 | 467 |

TABLE 6F.—REVISED PROCEDURE CODE TITLES

| Procedure Code | Description | OR | MDC | DRG |
|---|---|---|---|---|
| 75.34 | Other fetal monitoring | N | | |

## TABLE 6G.—ADDITIONS TO THE CC EXCLUSIONS LIST

CCs that are added to the list are in Table 6F-Additions to the CC Exclusions List. Each of the principal diagnoses is shown with an asterisk, and the revisions to the CC Exclusions List are provided in an indented column immediately following the affected principaldiagnosis.

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| *25631 | 80600 | 82010 | 80637 | 80606 | 82021 | 77212 | 77210 |
| 2580 | 80601 | 82011 | 80638 | 80607 | 82022 | 77213 | 77211 |
| 2581 | 80602 | 82012 | 80639 | 80608 | 82030 | 77214 | 77212 |
| 2588 | 80603 | 82013 | 8064 | 80609 | 82031 | 7797 | 77213 |
| 2589 | 80604 | 82019 | 8065 | 80610 | 82032 | *7729 | 77214 |
| *25639 | 80605 | 82020 | 80660 | 80611 | 8208 | 77210 | 7797 |
| 2580 | 80606 | 82021 | 80661 | 80612 | 8209 | 77211 | *7769 |
| 2581 | 80607 | 82022 | 80662 | 80613 | 82100 | 77212 | 77210 |
| 2588 | 80608 | 82030 | 80669 | 80614 | 82101 | 77213 | 77211 |
| 2589 | 80609 | 82031 | 80670 | 80615 | 82110 | 77214 | 77212 |
| *6023 | 80610 | 82032 | 80671 | 80616 | 82111 | 7797 | 77213 |
| 5960 | 80611 | 8208 | 80672 | 80617 | *7720 | *7760 | 77214 |
| 5996 | 80612 | 8209 | 80679 | 80618 | 77210 | 77210 | 7797 |
| 6010 | 80613 | 82100 | 8068 | 80619 | 77211 | 77211 | *7797 |
| 6012 | 80614 | 82101 | 8069 | 80620 | 77212 | 77212 | 7722 |
| 6013 | 80615 | 82110 | 8080 | 80621 | 77213 | 77213 | 7797 |
| 6021 | 80616 | 82111 | 8082 | 80622 | 77214 | 77214 | *7798 |
| 78820 | 80617 | *73394 | 8083 | 80623 | 7797 | 7797 | 77210 |
| 78829 | 80618 | 73310 | 80843 | 80624 | *77210 | *7761 | 77211 |
| *60887 | 80619 | 73311 | 80849 | 80625 | 77210 | 77210 | 77212 |
| 5970 | 80620 | 73312 | 80851 | 80626 | 77211 | 77211 | 77213 |
| 5994 | 80621 | 73313 | 80852 | 80627 | 77212 | 77212 | 77214 |
| *73310 | 80622 | 73314 | 80853 | 80628 | 77213 | 77213 | 7797 |
| 73393 | 80623 | 73315 | 80859 | 80629 | 77214 | 77214 | *9972 |
| 73394 | 80624 | 73316 | 8088 | 80630 | 7722 | 7797 | 99771 |
| 73395 | 80625 | 73319 | 8089 | 80631 | 7797 | *7762 | 99772 |
| *73311 | 80626 | 73393 | 82000 | 80632 | *77211 | 77210 | 99779 |
| 73393 | 80627 | 73394 | 82001 | 80633 | 77210 | 77211 | *99771 |
| 73394 | 80628 | 73395 | 82002 | 80634 | 77211 | 77212 | 53640 |
| 73395 | 80629 | 8058 | 82003 | 80635 | 77212 | 77213 | 53641 |
| *73312 | 80630 | 8059 | 82009 | 80636 | 77213 | 77214 | 53642 |
| 73393 | 80631 | 80600 | 82010 | 80637 | 77214 | 7797 | 53649 |
| 73394 | 80632 | 80601 | 82011 | 80638 | 7722 | *7763 | 56962 |
| 73395 | 80633 | 80602 | 82012 | 80639 | 7797 | 77210 | 9974 |
| *73313 | 80634 | 80603 | 82013 | 8064 | *77212 | 77211 | 99771 |
| 73393 | 80635 | 80604 | 82019 | 8065 | 77210 | 77212 | 99772 |
| 73394 | 80636 | 80605 | 82020 | 80660 | 77211 | 77213 | 99779 |
| 73395 | 80637 | 80606 | 82021 | 80661 | 77212 | 77214 | *99772 |
| *73314 | 80638 | 80607 | 82022 | 80662 | 77213 | 7797 | 9975 |
| 73393 | 80639 | 80608 | 82030 | 80669 | 77214 | *7764 | 99771 |
| 73394 | 8064 | 80609 | 82031 | 80670 | 7722 | 77210 | 99772 |
| 73395 | 8065 | 80610 | 82032 | 80671 | 7797 | 77211 | 99779 |
| *73315 | 80660 | 80611 | 8208 | 80672 | *77213 | 77212 | *99779 |
| 73393 | 80661 | 80612 | 8209 | 80679 | 77210 | 77213 | 9972 |
| 73394 | 80662 | 80613 | 82100 | 8068 | 77211 | 77214 | 99771 |
| 73395 | 80669 | 80614 | 82101 | 8069 | 77212 | 7797 | 99772 |
| *73316 | 80670 | 80615 | 82110 | 8080 | 77213 | *7765 | 99779 |
| 73393 | 80671 | 80616 | 82111 | 8082 | 77214 | 77210 | *99791 |
| 73394 | 80672 | 80617 | *73395 | 8083 | 7722 | 77211 | 99771 |
| 73395 | 80679 | 80618 | 73310 | 80843 | 7797 | 77212 | 99772 |
| *73319 | 8068 | 80619 | 73311 | 80849 | *77214 | 77213 | 99779 |
| 73393 | 8069 | 80620 | 73312 | 80851 | 77210 | 77214 | *99799 |
| 73394 | 8080 | 80621 | 73313 | 80852 | 77211 | 7797 | 99771 |
| 73395 | 8082 | 80622 | 73314 | 80853 | 77212 | *7766 | 99772 |
| *73393 | 8083 | 80623 | 73315 | 80859 | 77213 | 77210 | 99779 |
| 73310 | 80843 | 80624 | 73316 | 8088 | 77214 | 77211 | *99881 |
| 73311 | 80849 | 80625 | 73319 | 8089 | 7722 | 77212 | 99771 |
| 73312 | 80851 | 80626 | 73393 | 82000 | 7797 | 77213 | 99772 |
| 73313 | 80852 | 80627 | 73394 | 82001 | *7722 | 77214 | 99779 |
| 73314 | 80853 | 80628 | 73395 | 82002 | 77210 | 7797 | *99883 |
| 73315 | 80859 | 80629 | 8058 | 82003 | 77211 | *7767 | 99771 |
| 73316 | 8088 | 80630 | 8059 | 82009 | 77212 | 77210 | 99772 |
| 73319 | 8089 | 80631 | 80600 | 82010 | 77213 | 77211 | 99779 |
| 73393 | 82000 | 80632 | 80601 | 82011 | 77214 | 77212 | *99889 |
| 73394 | 82001 | 80633 | 80602 | 82012 | 7797 | 77213 | 99771 |
| 73395 | 82002 | 80634 | 80603 | 82013 | *7728 | 77214 | 99772 |
| 8058 | 82003 | 80635 | 80604 | 82019 | 77210 | 7797 | 99779 |
| 8059 | 82009 | 80636 | 80605 | 82020 | 77211 | *7768 | *9989 |
| 99771 | | | | | | | |
| 99772 | | | | | | | |
| 99779 | | | | | | | |

TABLE 6H.—DELETIONS TO THE CC EXCLUSIONS LIST

CCs that are deleted from the list are in Table 6G-Deletions to the CC Exclusions List. Each of the principal diagnoses is shown with an asterisk, and the revisions to the CC Exclusions List are provided in an indented column immediately following the affected principal diagnosis.

| | |
|---|---|
| *2563 | |
| | 2580 |
| | 2581 |
| | 2588 |
| | 2589 |
| *7720 | |
| | 7721 |
| *7721 | |
| | 7721 |
| | 7722 |
| *7722 | |
| | 7721 |
| *7728 | |
| | 7721 |
| *7729 | |
| | 7721 |
| *7760 | |
| | 7721 |
| *7761 | |
| | 7721 |
| *7762 | |
| | 7721 |
| *7763 | |
| | 7721 |
| *7764 | |
| | 7721 |
| *7765 | |
| | 7721 |
| *7766 | |
| | 7721 |
| *7767 | |
| | 7721 |
| *7768 | |
| | 7721 |
| *7769 | |
| | 7721 |
| *7798 | |
| | 7721 |

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY

[FY2000 MEDPAR update 03/01 Grouper V18.0 ]

| DRG | Number discharges | Arithmetic mean LOS | 10th percentile | 25th percentile | 50th percentile | 75th percentile | 90th percentile |
|---|---|---|---|---|---|---|---|
| 1 | 34040 | 9.0038 | 2 | 3 | 6 | 12 | 19 |
| 2 | 6862 | 9.9787 | 3 | 5 | 8 | 12 | 20 |
| 3 | 2 | 43.5000 | 35 | 35 | 52 | 52 | 52 |
| 4 | 6110 | 7.1570 | 1 | 2 | 5 | 9 | 15 |
| 5 | 93853 | 3.1665 | 1 | 1 | 2 | 3 | 7 |
| 6 | 365 | 2.9671 | 1 | 1 | 2 | 4 | 6 |
| 7 | 13063 | 9.8610 | 2 | 4 | 7 | 12 | 20 |
| 8 | 3725 | 2.8969 | 1 | 1 | 2 | 4 | 7 |
| 9 | 1632 | 6.3192 | 1 | 3 | 5 | 8 | 13 |
| 10 | 17754 | 6.5545 | 2 | 3 | 5 | 8 | 13 |
| 11 | 3157 | 4.0744 | 1 | 2 | 3 | 5 | 8 |
| 12 | 47063 | 5.9088 | 2 | 3 | 4 | 7 | 11 |
| 13 | 6504 | 5.1948 | 2 | 3 | 4 | 6 | 9 |
| 14 | 321622 | 5.8761 | 2 | 3 | 5 | 7 | 11 |
| 15 | 146291 | 3.5528 | 1 | 2 | 3 | 4 | 7 |
| 16 | 11235 | 6.0446 | 2 | 3 | 5 | 7 | 12 |
| 17 | 3532 | 3.3061 | 1 | 2 | 3 | 4 | 6 |
| 18 | 26608 | 5.4190 | 2 | 3 | 4 | 7 | 10 |
| 19 | 8346 | 3.6416 | 1 | 2 | 3 | 5 | 7 |
| 20 | 5680 | 10.1768 | 3 | 5 | 8 | 13 | 20 |
| 21 | 1324 | 6.5249 | 2 | 3 | 5 | 8 | 13 |
| 22 | 2560 | 4.8176 | 1 | 2 | 4 | 6 | 9 |
| 23 | 9553 | 4.1807 | 1 | 2 | 3 | 5 | 8 |
| 24 | 53313 | 4.9825 | 1 | 2 | 4 | 6 | 10 |
| 25 | 25528 | 3.2186 | 1 | 2 | 3 | 4 | 6 |
| 26 | 33 | 2.9091 | 1 | 1 | 2 | 4 | 6 |
| 27 | 3519 | 5.0673 | 1 | 1 | 3 | 6 | 11 |
| 28 | 11477 | 6.2222 | 1 | 3 | 5 | 8 | 13 |
| 29 | 4545 | 3.5982 | 1 | 2 | 3 | 5 | 7 |
| 30 | 1 | 1.0000 | 1 | 1 | 1 | 1 | 1 |
| 31 | 3576 | 4.4855 | 1 | 2 | 3 | 5 | 8 |
| 32 | 1770 | 2.5644 | 1 | 1 | 2 | 3 | 5 |
| 33 | 1 | 1.0000 | 1 | 1 | 1 | 1 | 1 |
| 34 | 20753 | 5.0757 | 1 | 2 | 4 | 6 | 10 |
| 35 | 5893 | 3.3743 | 1 | 2 | 3 | 4 | 6 |
| 36 | 3217 | 1.4719 | 1 | 1 | 1 | 1 | 2 |
| 37 | 1465 | 4.0348 | 1 | 1 | 2 | 5 | 9 |
| 38 | 102 | 2.6569 | 1 | 1 | 2 | 3 | 5 |
| 39 | 918 | 1.9379 | 1 | 1 | 1 | 2 | 4 |
| 40 | 1561 | 3.4209 | 1 | 1 | 2 | 4 | 7 |
| 42 | 2235 | 2.2859 | 1 | 1 | 1 | 3 | 5 |
| 43 | 85 | 3.1882 | 1 | 2 | 3 | 4 | 6 |
| 44 | 1244 | 4.9518 | 2 | 3 | 4 | 6 | 9 |
| 45 | 2464 | 3.1717 | 1 | 2 | 3 | 4 | 6 |
| 46 | 3102 | 4.6518 | 1 | 2 | 4 | 6 | 9 |
| 47 | 1284 | 3.2749 | 1 | 1 | 3 | 4 | 6 |
| 49 | 2266 | 4.8010 | 1 | 2 | 3 | 6 | 9 |
| 50 | 2507 | 1.9418 | 1 | 1 | 1 | 2 | 3 |
| 51 | 205 | 2.6927 | 1 | 1 | 1 | 2 | 6 |
| 52 | 224 | 1.9196 | 1 | 1 | 1 | 2 | 3 |
| 53 | 2509 | 3.5787 | 1 | 1 | 2 | 4 | 8 |
| 54 | 2 | 1.5000 | 1 | 1 | 2 | 2 | 2 |
| 55 | 1519 | 2.7340 | 1 | 1 | 1 | 3 | 6 |
| 56 | 517 | 2.7389 | 1 | 1 | 2 | 3 | 5 |
| 57 | 712 | 4.0478 | 1 | 1 | 2 | 5 | 9 |
| 59 | 107 | 2.7850 | 1 | 1 | 2 | 3 | 5 |
| 60 | 2 | 3.5000 | 2 | 2 | 5 | 5 | 5 |
| 61 | 234 | 5.1624 | 1 | 1 | 2 | 6 | 13 |
| 62 | 3 | 1.3333 | 1 | 1 | 1 | 2 | 2 |
| 63 | 2955 | 4.3993 | 1 | 2 | 3 | 5 | 9 |
| 64 | 3070 | 6.1642 | 1 | 2 | 4 | 8 | 13 |
| 65 | 34702 | 2.8444 | 1 | 1 | 2 | 4 | 5 |
| 66 | 7035 | 3.1599 | 1 | 1 | 2 | 4 | 6 |
| 67 | 501 | 3.5768 | 1 | 2 | 3 | 4 | 7 |
| 68 | 16708 | 4.1241 | 1 | 2 | 3 | 5 | 7 |
| 69 | 5417 | 3.2845 | 1 | 2 | 3 | 4 | 6 |
| 70 | 24 | 2.9167 | 1 | 2 | 2 | 4 | 5 |
| 71 | 82 | 3.8049 | 1 | 2 | 3 | 4 | 7 |
| 72 | 893 | 3.5566 | 1 | 2 | 3 | 4 | 6 |
| 73 | 6690 | 4.3988 | 1 | 2 | 3 | 6 | 9 |

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY2000 MEDPAR update 03/01 Grouper V18.0 ]

| DRG | Number discharges | Arithmetic mean LOS | 10th percentile | 25th percentile | 50th percentile | 75th percentile | 90th percentile |
|---|---|---|---|---|---|---|---|
| 75 | 39476 | 9.9112 | 3 | 5 | 7 | 12 | 19 |
| 76 | 39399 | 11.3188 | 3 | 5 | 9 | 14 | 21 |
| 77 | 2358 | 4.9165 | 1 | 2 | 4 | 7 | 10 |
| 78 | 32319 | 6.7837 | 3 | 4 | 6 | 8 | 11 |
| 79 | 170615 | 8.4963 | 3 | 4 | 7 | 11 | 16 |
| 80 | 8981 | 5.6562 | 2 | 3 | 5 | 7 | 10 |
| 81 | 4 | 18.2500 | 3 | 3 | 4 | 8 | 58 |
| 82 | 62447 | 6.9403 | 2 | 3 | 5 | 9 | 14 |
| 83 | 6598 | 5.5518 | 2 | 3 | 4 | 7 | 10 |
| 84 | 1539 | 3.3197 | 1 | 2 | 3 | 4 | 6 |
| 85 | 20738 | 6.3135 | 2 | 3 | 5 | 8 | 12 |
| 86 | 2115 | 3.6648 | 1 | 2 | 3 | 5 | 7 |
| 87 | 60486 | 6.2986 | 1 | 3 | 5 | 8 | 12 |
| 88 | 395676 | 5.1294 | 2 | 3 | 4 | 6 | 9 |
| 89 | 529122 | 5.9478 | 2 | 3 | 5 | 7 | 11 |
| 90 | 53985 | 4.1475 | 2 | 3 | 4 | 5 | 7 |
| 91 | 57 | 4.4561 | 2 | 2 | 3 | 5 | 9 |
| 92 | 13873 | 6.3521 | 2 | 3 | 5 | 8 | 12 |
| 93 | 1692 | 4.0969 | 1 | 2 | 3 | 5 | 7 |
| 94 | 12158 | 6.3088 | 2 | 3 | 5 | 8 | 12 |
| 95 | 1621 | 3.7224 | 1 | 2 | 3 | 5 | 7 |
| 96 | 62414 | 4.6281 | 2 | 3 | 4 | 6 | 8 |
| 97 | 31618 | 3.6509 | 1 | 2 | 3 | 5 | 7 |
| 98 | 17 | 4.3529 | 1 | 2 | 3 | 4 | 6 |
| 99 | 19205 | 3.2061 | 1 | 1 | 2 | 4 | 6 |
| 100 | 7656 | 2.1813 | 1 | 1 | 2 | 3 | 4 |
| 101 | 20236 | 4.3987 | 1 | 2 | 3 | 5 | 9 |
| 102 | 5196 | 2.6522 | 1 | 1 | 2 | 3 | 5 |
| 103 | 494 | 47.2510 | 9 | 13 | 25 | 61 | 102 |
| 104 | 37017 | 11.3083 | 3 | 6 | 9 | 14 | 22 |
| 105 | 29991 | 9.2831 | 4 | 5 | 7 | 11 | 17 |
| 106 | 3425 | 11.4923 | 5 | 7 | 10 | 14 | 20 |
| 107 | 88610 | 10.3724 | 5 | 7 | 9 | 12 | 17 |
| 108 | 6099 | 10.2140 | 3 | 5 | 8 | 13 | 19 |
| 109 | 60766 | 7.6912 | 4 | 5 | 6 | 9 | 12 |
| 110 | 53054 | 9.2130 | 2 | 5 | 7 | 11 | 18 |
| 111 | 8563 | 4.7507 | 1 | 2 | 5 | 6 | 8 |
| 112 | 56110 | 3.6750 | 1 | 1 | 2 | 5 | 8 |
| 113 | 42570 | 12.2362 | 3 | 6 | 9 | 15 | 24 |
| 114 | 8788 | 8.4208 | 2 | 4 | 7 | 11 | 16 |
| 115 | 14447 | 8.1481 | 1 | 4 | 7 | 11 | 16 |
| 116 | 333539 | 3.6045 | 1 | 1 | 2 | 5 | 8 |
| 117 | 3750 | 4.1997 | 1 | 1 | 2 | 5 | 9 |
| 118 | 7731 | 2.6831 | 1 | 1 | 1 | 3 | 6 |
| 119 | 1315 | 4.8783 | 1 | 1 | 3 | 6 | 12 |
| 120 | 36315 | 8.1402 | 1 | 2 | 5 | 11 | 18 |
| 121 | 163108 | 6.3828 | 2 | 3 | 5 | 8 | 12 |
| 122 | 79700 | 3.6981 | 1 | 2 | 3 | 5 | 7 |
| 123 | 40952 | 4.5870 | 1 | 1 | 3 | 6 | 11 |
| 124 | 133892 | 4.3434 | 1 | 2 | 3 | 5 | 8 |
| 125 | 80872 | 2.7656 | 1 | 1 | 2 | 4 | 5 |
| 126 | 5210 | 11.7196 | 3 | 6 | 9 | 15 | 22 |
| 127 | 683001 | 5.2764 | 2 | 3 | 4 | 7 | 10 |
| 128 | 9485 | 5.6128 | 2 | 4 | 5 | 7 | 9 |
| 129 | 4174 | 2.7513 | 1 | 1 | 1 | 3 | 6 |
| 130 | 87705 | 5.6725 | 2 | 3 | 5 | 7 | 10 |
| 131 | 27378 | 4.2134 | 1 | 2 | 4 | 6 | 7 |
| 132 | 148681 | 3.0010 | 1 | 1 | 2 | 4 | 6 |
| 133 | 8355 | 2.3246 | 1 | 1 | 2 | 3 | 4 |
| 134 | 36411 | 3.2406 | 1 | 2 | 3 | 4 | 6 |
| 135 | 7338 | 4.5492 | 1 | 2 | 3 | 6 | 9 |
| 136 | 1233 | 2.7178 | 1 | 1 | 2 | 3 | 5 |
| 138 | 195523 | 3.9935 | 1 | 2 | 3 | 5 | 8 |
| 139 | 82943 | 2.5030 | 1 | 1 | 2 | 3 | 5 |
| 140 | 70338 | 2.6538 | 1 | 1 | 2 | 3 | 5 |
| 141 | 91110 | 3.6692 | 1 | 2 | 3 | 5 | 7 |
| 142 | 45981 | 2.6476 | 1 | 1 | 2 | 3 | 5 |
| 143 | 205686 | 2.1259 | 1 | 1 | 2 | 3 | 4 |
| 144 | 82529 | 5.3248 | 1 | 2 | 4 | 7 | 11 |
| 145 | 7242 | 2.7331 | 1 | 1 | 2 | 3 | 5 |

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY2000 MEDPAR update 03/01 Grouper V18.0 ]

| DRG | Number discharges | Arithmetic mean LOS | 10th percentile | 25th percentile | 50th percentile | 75th percentile | 90th percentile |
|---|---|---|---|---|---|---|---|
| 146 | 10755 | 10.3134 | 5 | 7 | 9 | 12 | 17 |
| 147 | 2637 | 6.4137 | 3 | 5 | 6 | 8 | 9 |
| 148 | 129971 | 12.2043 | 5 | 7 | 10 | 15 | 22 |
| 149 | 18528 | 6.5116 | 4 | 5 | 6 | 8 | 9 |
| 150 | 19921 | 11.2798 | 4 | 7 | 10 | 14 | 20 |
| 151 | 4858 | 5.8121 | 2 | 3 | 5 | 8 | 10 |
| 152 | 4399 | 8.1444 | 3 | 5 | 7 | 9 | 14 |
| 153 | 2100 | 5.3838 | 3 | 4 | 5 | 7 | 8 |
| 154 | 28871 | 13.1708 | 4 | 7 | 10 | 16 | 25 |
| 155 | 6655 | 4.2026 | 1 | 2 | 3 | 6 | 8 |
| 156 | 4 | 7.5000 | 1 | 1 | 5 | 6 | 18 |
| 157 | 7956 | 5.3910 | 1 | 2 | 4 | 7 | 11 |
| 158 | 4670 | 2.5362 | 1 | 1 | 2 | 3 | 5 |
| 159 | 16448 | 4.9962 | 1 | 2 | 4 | 6 | 10 |
| 160 | 11726 | 2.6594 | 1 | 1 | 2 | 3 | 5 |
| 161 | 11205 | 4.2062 | 1 | 1 | 3 | 5 | 9 |
| 162 | 7214 | 1.9211 | 1 | 1 | 1 | 2 | 4 |
| 163 | 7 | 3.5714 | 1 | 1 | 2 | 3 | 4 |
| 164 | 4857 | 8.4293 | 4 | 5 | 7 | 10 | 15 |
| 165 | 2086 | 4.7895 | 2 | 3 | 5 | 6 | 8 |
| 166 | 3559 | 5.0441 | 2 | 2 | 4 | 6 | 10 |
| 167 | 3316 | 2.6001 | 1 | 2 | 2 | 3 | 5 |
| 168 | 1235 | 4.9247 | 1 | 2 | 3 | 6 | 10 |
| 169 | 813 | 2.3395 | 1 | 1 | 2 | 3 | 5 |
| 170 | 11057 | 11.1942 | 2 | 5 | 8 | 14 | 22 |
| 171 | 1274 | 4.6201 | 1 | 2 | 4 | 6 | 9 |
| 172 | 30682 | 6.9445 | 2 | 3 | 5 | 9 | 14 |
| 173 | 2707 | 3.6679 | 1 | 1 | 3 | 5 | 7 |
| 174 | 242054 | 4.7970 | 2 | 3 | 4 | 6 | 9 |
| 175 | 32431 | 2.9309 | 1 | 2 | 3 | 4 | 5 |
| 176 | 15194 | 5.2285 | 2 | 3 | 4 | 6 | 10 |
| 177 | 9272 | 4.5310 | 2 | 2 | 4 | 6 | 8 |
| 178 | 3619 | 3.0683 | 1 | 2 | 3 | 4 | 6 |
| 179 | 12384 | 5.9738 | 2 | 3 | 5 | 7 | 11 |
| 180 | 86181 | 5.3581 | 2 | 3 | 4 | 7 | 10 |
| 181 | 26423 | 3.4153 | 1 | 2 | 3 | 4 | 6 |
| 182 | 234742 | 4.3758 | 1 | 2 | 3 | 5 | 8 |
| 183 | 81065 | 2.9320 | 1 | 1 | 2 | 4 | 5 |
| 184 | 78 | 2.9487 | 1 | 2 | 2 | 4 | 6 |
| 185 | 4769 | 4.5280 | 1 | 2 | 3 | 6 | 9 |
| 186 | 3 | 9.3333 | 1 | 1 | 9 | 18 | 18 |
| 187 | 443 | 4.0045 | 1 | 2 | 3 | 5 | 8 |
| 188 | 76140 | 5.5645 | 1 | 2 | 4 | 7 | 11 |
| 189 | 12060 | 3.1404 | 1 | 1 | 2 | 4 | 6 |
| 190 | 51 | 6.9608 | 2 | 3 | 4 | 5 | 8 |
| 191 | 8964 | 13.8146 | 4 | 6 | 10 | 17 | 27 |
| 192 | 1122 | 6.5294 | 2 | 4 | 6 | 8 | 11 |
| 193 | 5303 | 12.5218 | 5 | 7 | 10 | 16 | 22 |
| 194 | 721 | 6.7906 | 2 | 4 | 6 | 8 | 12 |
| 195 | 4350 | 10.1616 | 4 | 6 | 9 | 12 | 17 |
| 196 | 1166 | 5.7196 | 2 | 4 | 5 | 7 | 10 |
| 197 | 18895 | 8.9383 | 3 | 5 | 7 | 11 | 16 |
| 198 | 5786 | 4.5380 | 2 | 3 | 4 | 6 | 8 |
| 199 | 1725 | 9.6614 | 2 | 4 | 7 | 13 | 21 |
| 200 | 1081 | 10.3478 | 1 | 3 | 7 | 13 | 23 |
| 201 | 1413 | 13.7594 | 3 | 6 | 11 | 17 | 27 |
| 202 | 26168 | 6.4060 | 2 | 3 | 5 | 8 | 13 |
| 203 | 29251 | 6.6384 | 2 | 3 | 5 | 9 | 13 |
| 204 | 57757 | 5.7995 | 2 | 3 | 4 | 7 | 11 |
| 205 | 23128 | 6.1790 | 2 | 3 | 5 | 8 | 12 |
| 206 | 1970 | 3.8959 | 1 | 2 | 3 | 5 | 7 |
| 207 | 31072 | 5.0836 | 1 | 2 | 4 | 6 | 10 |
| 208 | 10149 | 2.8924 | 1 | 1 | 2 | 4 | 6 |
| 209 | 345519 | 5.0794 | 3 | 3 | 4 | 6 | 8 |
| 210 | 121933 | 6.8207 | 3 | 4 | 6 | 8 | 11 |
| 211 | 31780 | 4.9358 | 3 | 4 | 4 | 6 | 7 |
| 212 | 8 | 10.5000 | 1 | 1 | 4 | 9 | 29 |
| 213 | 9241 | 9.0019 | 2 | 4 | 7 | 11 | 18 |
| 216 | 6008 | 9.6949 | 2 | 4 | 8 | 12 | 20 |
| 217 | 16558 | 13.2636 | 3 | 5 | 9 | 16 | 28 |

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY2000 MEDPAR update 03/01 Grouper V18.0 ]

| DRG | Number discharges | Arithmetic mean LOS | 10th percentile | 25th percentile | 50th percentile | 75th percentile | 90th percentile |
|---|---|---|---|---|---|---|---|
| 218 | 21625 | 5.4332 | 2 | 3 | 4 | 7 | 10 |
| 219 | 19714 | 3.2188 | 1 | 2 | 3 | 4 | 6 |
| 220 | 6 | 4.0000 | 1 | 1 | 3 | 7 | 7 |
| 223 | 13397 | 2.8551 | 1 | 1 | 2 | 3 | 6 |
| 224 | 11274 | 1.9346 | 1 | 1 | 2 | 2 | 3 |
| 225 | 5805 | 4.8558 | 1 | 2 | 3 | 6 | 11 |
| 226 | 5235 | 6.5958 | 1 | 2 | 4 | 8 | 14 |
| 227 | 4703 | 2.7053 | 1 | 1 | 2 | 3 | 5 |
| 228 | 2373 | 3.7981 | 1 | 1 | 2 | 5 | 8 |
| 229 | 1119 | 2.4781 | 1 | 1 | 2 | 3 | 5 |
| 230 | 2401 | 5.2603 | 1 | 2 | 3 | 6 | 11 |
| 231 | 12308 | 4.9551 | 1 | 2 | 3 | 6 | 10 |
| 232 | 811 | 2.8792 | 1 | 1 | 1 | 3 | 7 |
| 233 | 5175 | 7.5314 | 2 | 3 | 6 | 10 | 15 |
| 234 | 3204 | 3.4263 | 1 | 1 | 3 | 4 | 7 |
| 235 | 5095 | 5.1460 | 1 | 2 | 4 | 6 | 9 |
| 236 | 38644 | 4.8192 | 1 | 3 | 4 | 6 | 9 |
| 237 | 1698 | 3.4953 | 1 | 2 | 3 | 4 | 6 |
| 238 | 8028 | 8.5896 | 3 | 4 | 6 | 10 | 16 |
| 239 | 49412 | 6.2190 | 2 | 3 | 5 | 8 | 12 |
| 240 | 11462 | 6.6902 | 2 | 3 | 5 | 8 | 13 |
| 241 | 3138 | 3.8368 | 1 | 2 | 3 | 5 | 7 |
| 242 | 2455 | 6.6550 | 2 | 3 | 5 | 8 | 13 |
| 243 | 88444 | 4.6699 | 1 | 2 | 4 | 6 | 9 |
| 244 | 12282 | 4.8026 | 1 | 2 | 4 | 6 | 9 |
| 245 | 5158 | 3.4420 | 1 | 2 | 3 | 4 | 6 |
| 246 | 1402 | 3.8759 | 1 | 2 | 3 | 5 | 7 |
| 247 | 16979 | 3.4022 | 1 | 1 | 3 | 4 | 7 |
| 248 | 10612 | 4.8149 | 1 | 2 | 4 | 6 | 9 |
| 249 | 11655 | 3.6913 | 1 | 1 | 2 | 4 | 8 |
| 250 | 3495 | 4.1021 | 1 | 2 | 3 | 5 | 7 |
| 251 | 2432 | 2.8647 | 1 | 1 | 2 | 4 | 5 |
| 253 | 19997 | 4.7768 | 1 | 3 | 4 | 6 | 9 |
| 254 | 10514 | 3.1844 | 1 | 2 | 3 | 4 | 6 |
| 255 | 1 | 3.0000 | 3 | 3 | 3 | 3 | 3 |
| 256 | 6110 | 5.0566 | 1 | 2 | 4 | 6 | 10 |
| 257 | 16468 | 2.7380 | 1 | 1 | 2 | 3 | 5 |
| 258 | 16096 | 1.9335 | 1 | 1 | 2 | 2 | 3 |
| 259 | 3805 | 2.6915 | 1 | 1 | 1 | 2 | 6 |
| 260 | 4920 | 1.4191 | 1 | 1 | 1 | 2 | 2 |
| 261 | 1871 | 2.2720 | 1 | 1 | 1 | 3 | 5 |
| 262 | 615 | 4.0065 | 1 | 1 | 3 | 5 | 8 |
| 263 | 23616 | 11.6630 | 3 | 5 | 8 | 14 | 23 |
| 264 | 4081 | 7.0034 | 2 | 3 | 5 | 8 | 14 |
| 265 | 3785 | 6.7974 | 1 | 2 | 4 | 8 | 14 |
| 266 | 2669 | 3.2345 | 1 | 1 | 2 | 4 | 7 |
| 267 | 233 | 4.2060 | 1 | 1 | 3 | 6 | 9 |
| 268 | 910 | 3.5824 | 1 | 1 | 2 | 4 | 7 |
| 269 | 8868 | 8.2049 | 2 | 3 | 6 | 10 | 17 |
| 270 | 2661 | 3.4540 | 1 | 1 | 2 | 4 | 7 |
| 271 | 20588 | 7.1370 | 2 | 4 | 6 | 9 | 13 |
| 272 | 5506 | 6.1593 | 2 | 3 | 5 | 8 | 12 |
| 273 | 1290 | 4.0233 | 1 | 2 | 3 | 5 | 8 |
| 274 | 2357 | 6.5965 | 1 | 3 | 5 | 8 | 13 |
| 275 | 249 | 4.3373 | 1 | 1 | 3 | 5 | 9 |
| 276 | 1183 | 4.7101 | 1 | 2 | 4 | 6 | 8 |
| 277 | 88891 | 5.7267 | 2 | 3 | 5 | 7 | 10 |
| 278 | 30673 | 4.3084 | 2 | 3 | 4 | 5 | 8 |
| 279 | 3 | 2.3333 | 1 | 1 | 2 | 4 | 4 |
| 280 | 15826 | 4.1974 | 1 | 2 | 3 | 5 | 8 |
| 281 | 7203 | 3.0314 | 1 | 1 | 3 | 4 | 6 |
| 282 | 3 | 1.6667 | 1 | 1 | 2 | 2 | 2 |
| 283 | 5701 | 4.5869 | 1 | 2 | 4 | 6 | 9 |
| 284 | 1863 | 3.0934 | 1 | 1 | 2 | 4 | 6 |
| 285 | 6259 | 10.2903 | 3 | 5 | 8 | 13 | 20 |
| 286 | 2081 | 6.4248 | 2 | 3 | 5 | 7 | 13 |
| 287 | 5745 | 10.5220 | 3 | 5 | 7 | 12 | 21 |
| 288 | 2705 | 5.7360 | 2 | 3 | 4 | 6 | 9 |
| 289 | 4801 | 3.0165 | 1 | 1 | 2 | 3 | 7 |
| 290 | 8818 | 2.3115 | 1 | 1 | 2 | 2 | 4 |

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY2000 MEDPAR update 03/01 Grouper V18.0 ]

| DRG | Number discharges | Arithmetic mean LOS | 10th percentile | 25th percentile | 50th percentile | 75th percentile | 90th percentile |
|---|---|---|---|---|---|---|---|
| 291 | 66 | 1.8333 | 1 | 1 | 1 | 2 | 3 |
| 292 | 5044 | 10.2399 | 2 | 4 | 8 | 13 | 20 |
| 293 | 385 | 5.3714 | 1 | 2 | 4 | 7 | 11 |
| 294 | 88615 | 4.6095 | 1 | 2 | 4 | 6 | 9 |
| 295 | 3318 | 3.7372 | 1 | 2 | 3 | 5 | 7 |
| 296 | 240055 | 5.1602 | 2 | 2 | 4 | 6 | 10 |
| 297 | 44040 | 3.4064 | 1 | 2 | 3 | 4 | 6 |
| 298 | 95 | 2.9158 | 1 | 1 | 2 | 4 | 5 |
| 299 | 1192 | 5.3079 | 1 | 2 | 4 | 7 | 11 |
| 300 | 16118 | 6.1471 | 2 | 3 | 5 | 8 | 12 |
| 301 | 3221 | 3.6107 | 1 | 2 | 3 | 4 | 7 |
| 302 | 8256 | 9.0922 | 4 | 5 | 7 | 10 | 16 |
| 303 | 19568 | 8.4192 | 4 | 5 | 7 | 10 | 15 |
| 304 | 11902 | 8.7432 | 2 | 4 | 6 | 11 | 18 |
| 305 | 3011 | 3.6430 | 1 | 2 | 3 | 5 | 7 |
| 306 | 7368 | 5.6221 | 1 | 2 | 3 | 8 | 13 |
| 307 | 2096 | 2.2457 | 1 | 1 | 2 | 3 | 4 |
| 308 | 7520 | 6.2090 | 1 | 2 | 4 | 8 | 14 |
| 309 | 4120 | 2.2998 | 1 | 1 | 2 | 3 | 4 |
| 310 | 24033 | 4.4040 | 1 | 1 | 3 | 6 | 10 |
| 311 | 8027 | 1.8343 | 1 | 1 | 1 | 2 | 3 |
| 312 | 1499 | 4.4957 | 1 | 1 | 3 | 6 | 10 |
| 313 | 594 | 2.3300 | 1 | 1 | 1 | 3 | 5 |
| 314 | 1 | 3.0000 | 3 | 3 | 3 | 3 | 3 |
| 315 | 30085 | 6.9945 | 1 | 1 | 4 | 9 | 16 |
| 316 | 105482 | 6.6227 | 2 | 3 | 5 | 8 | 13 |
| 317 | 1536 | 2.8561 | 1 | 1 | 2 | 3 | 6 |
| 318 | 5627 | 6.0105 | 1 | 3 | 5 | 8 | 12 |
| 319 | 428 | 2.7477 | 1 | 1 | 2 | 3 | 6 |
| 320 | 188146 | 5.3180 | 2 | 3 | 4 | 6 | 10 |
| 321 | 30418 | 3.7849 | 1 | 2 | 3 | 5 | 7 |
| 322 | 61 | 4.1475 | 2 | 2 | 3 | 5 | 8 |
| 323 | 17410 | 3.2221 | 1 | 1 | 2 | 4 | 7 |
| 324 | 7562 | 1.8803 | 1 | 1 | 1 | 2 | 3 |
| 325 | 8239 | 3.8229 | 1 | 2 | 3 | 5 | 7 |
| 326 | 2705 | 2.6699 | 1 | 1 | 2 | 3 | 5 |
| 327 | 11 | 3.0909 | 1 | 1 | 3 | 4 | 5 |
| 328 | 668 | 3.6722 | 1 | 1 | 3 | 5 | 8 |
| 329 | 76 | 2.0000 | 1 | 1 | 1 | 2 | 4 |
| 331 | 46575 | 5.5475 | 1 | 3 | 4 | 7 | 11 |
| 332 | 4939 | 3.2909 | 1 | 1 | 2 | 4 | 7 |
| 333 | 290 | 4.9828 | 1 | 2 | 3 | 6 | 10 |
| 334 | 10491 | 4.8593 | 2 | 3 | 4 | 6 | 8 |
| 335 | 11916 | 3.3087 | 2 | 2 | 3 | 4 | 5 |
| 336 | 37713 | 3.4950 | 1 | 2 | 2 | 4 | 7 |
| 337 | 30390 | 2.1186 | 1 | 1 | 2 | 3 | 3 |
| 338 | 1232 | 5.1080 | 1 | 2 | 3 | 7 | 11 |
| 339 | 1628 | 4.6161 | 1 | 1 | 3 | 6 | 11 |
| 340 | 1 | 1.0000 | 1 | 1 | 1 | 1 | 1 |
| 341 | 3766 | 3.0316 | 1 | 1 | 2 | 3 | 6 |
| 342 | 675 | 3.2207 | 1 | 2 | 2 | 4 | 6 |
| 344 | 3519 | 2.3743 | 1 | 1 | 1 | 2 | 5 |
| 345 | 1280 | 3.7914 | 1 | 1 | 2 | 4 | 8 |
| 346 | 4489 | 5.9082 | 1 | 3 | 4 | 7 | 12 |
| 347 | 366 | 2.9372 | 1 | 1 | 2 | 4 | 6 |
| 348 | 3077 | 4.1677 | 1 | 2 | 3 | 5 | 8 |
| 349 | 626 | 2.5335 | 1 | 1 | 2 | 3 | 5 |
| 350 | 6325 | 4.4024 | 1 | 2 | 4 | 5 | 8 |
| 352 | 766 | 3.9621 | 1 | 2 | 3 | 5 | 8 |
| 353 | 2557 | 6.4490 | 2 | 3 | 5 | 7 | 12 |
| 354 | 7609 | 5.8406 | 3 | 3 | 4 | 7 | 11 |
| 355 | 5530 | 3.2790 | 2 | 3 | 3 | 4 | 5 |
| 356 | 25303 | 2.2920 | 1 | 1 | 2 | 3 | 4 |
| 357 | 5580 | 8.4925 | 3 | 4 | 7 | 10 | 16 |
| 358 | 20491 | 4.3133 | 2 | 3 | 3 | 5 | 7 |
| 359 | 30146 | 2.7284 | 2 | 2 | 3 | 3 | 4 |
| 360 | 16032 | 2.8550 | 1 | 2 | 2 | 3 | 5 |
| 361 | 386 | 2.9948 | 1 | 1 | 2 | 3 | 5 |
| 363 | 2875 | 3.4650 | 1 | 2 | 2 | 3 | 7 |
| 364 | 1667 | 3.8410 | 1 | 1 | 3 | 5 | 8 |

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY2000 MEDPAR update 03/01 Grouper V18.0 ]

| DRG | Number discharges | Arithmetic mean LOS | 10th percentile | 25th percentile | 50th percentile | 75th percentile | 90th percentile |
|---|---|---|---|---|---|---|---|
| 365 | 1737 | 7.2239 | 1 | 3 | 5 | 9 | 16 |
| 366 | 4468 | 6.7258 | 1 | 3 | 5 | 8 | 14 |
| 367 | 584 | 3.1284 | 1 | 1 | 2 | 4 | 6 |
| 368 | 3136 | 6.4716 | 2 | 3 | 5 | 8 | 12 |
| 369 | 3180 | 3.2500 | 1 | 1 | 2 | 4 | 7 |
| 370 | 1151 | 5.9079 | 3 | 3 | 4 | 5 | 10 |
| 371 | 1368 | 3.6447 | 2 | 3 | 3 | 4 | 5 |
| 372 | 964 | 3.2811 | 1 | 2 | 2 | 3 | 5 |
| 373 | 3920 | 2.2487 | 1 | 2 | 2 | 3 | 3 |
| 374 | 130 | 3.0846 | 1 | 2 | 2 | 3 | 4 |
| 375 | 11 | 2.2727 | 1 | 2 | 2 | 2 | 4 |
| 376 | 249 | 3.0843 | 1 | 2 | 2 | 4 | 6 |
| 377 | 51 | 5.0392 | 1 | 1 | 4 | 6 | 12 |
| 378 | 158 | 2.4177 | 1 | 1 | 2 | 3 | 4 |
| 379 | 344 | 3.4506 | 1 | 1 | 2 | 4 | 6 |
| 380 | 60 | 2.0833 | 1 | 1 | 1 | 2 | 5 |
| 381 | 154 | 2.5065 | 1 | 1 | 1 | 3 | 5 |
| 382 | 45 | 1.2889 | 1 | 1 | 1 | 1 | 2 |
| 383 | 1746 | 3.6174 | 1 | 1 | 2 | 4 | 8 |
| 384 | 121 | 2.1488 | 1 | 1 | 1 | 2 | 4 |
| 385 | 1 | 1.0000 | 1 | 1 | 1 | 1 | 1 |
| 389 | 16 | 13.5000 | 1 | 3 | 6 | 11 | 24 |
| 390 | 14 | 4.0000 | 1 | 2 | 3 | 6 | 7 |
| 391 | 1 | 4.0000 | 4 | 4 | 4 | 4 | 4 |
| 392 | 2349 | 9.6841 | 3 | 4 | 7 | 12 | 20 |
| 394 | 1891 | 7.1364 | 1 | 2 | 4 | 8 | 16 |
| 395 | 87679 | 4.4004 | 1 | 2 | 3 | 6 | 9 |
| 396 | 15 | 4.6667 | 1 | 2 | 4 | 6 | 7 |
| 397 | 17705 | 5.1893 | 1 | 2 | 4 | 7 | 10 |
| 398 | 17713 | 5.9510 | 2 | 3 | 5 | 7 | 11 |
| 399 | 1727 | 3.5634 | 1 | 2 | 3 | 5 | 7 |
| 400 | 6492 | 9.1288 | 1 | 3 | 6 | 12 | 20 |
| 401 | 5625 | 11.2775 | 2 | 5 | 9 | 15 | 23 |
| 402 | 1500 | 4.0933 | 1 | 1 | 3 | 6 | 9 |
| 403 | 32010 | 8.0846 | 2 | 3 | 6 | 10 | 17 |
| 404 | 4672 | 4.2609 | 1 | 2 | 3 | 6 | 9 |
| 406 | 2526 | 9.9224 | 3 | 4 | 7 | 12 | 21 |
| 407 | 722 | 4.4252 | 1 | 2 | 4 | 5 | 8 |
| 408 | 2193 | 8.0228 | 1 | 2 | 5 | 10 | 18 |
| 409 | 2831 | 5.9325 | 2 | 3 | 4 | 6 | 12 |
| 410 | 33654 | 3.9062 | 1 | 2 | 4 | 5 | 6 |
| 411 | 13 | 2.3077 | 1 | 1 | 2 | 2 | 5 |
| 412 | 30 | 2.4000 | 1 | 1 | 2 | 3 | 4 |
| 413 | 6478 | 7.0869 | 2 | 3 | 5 | 9 | 14 |
| 414 | 780 | 4.2885 | 1 | 2 | 3 | 5 | 9 |
| 415 | 39078 | 14.3458 | 4 | 6 | 11 | 18 | 28 |
| 416 | 184735 | 7.3935 | 2 | 4 | 6 | 9 | 14 |
| 417 | 18 | 5.0000 | 1 | 2 | 4 | 7 | 9 |
| 418 | 23028 | 6.1229 | 2 | 3 | 5 | 7 | 12 |
| 419 | 15460 | 4.7254 | 2 | 2 | 4 | 6 | 9 |
| 420 | 3116 | 3.4881 | 1 | 2 | 3 | 4 | 6 |
| 421 | 11535 | 3.7877 | 1 | 2 | 3 | 5 | 7 |
| 422 | 83 | 3.0482 | 1 | 2 | 3 | 4 | 6 |
| 423 | 7539 | 8.1108 | 2 | 3 | 6 | 10 | 16 |
| 424 | 1308 | 13.6338 | 2 | 5 | 9 | 16 | 26 |
| 425 | 15852 | 3.9953 | 1 | 2 | 3 | 5 | 8 |
| 426 | 4552 | 4.4512 | 1 | 2 | 3 | 5 | 9 |
| 427 | 1669 | 4.6207 | 1 | 2 | 3 | 6 | 9 |
| 428 | 854 | 6.9859 | 1 | 2 | 4 | 8 | 14 |
| 429 | 26786 | 6.3438 | 2 | 3 | 5 | 7 | 12 |
| 430 | 59892 | 8.0207 | 2 | 3 | 6 | 10 | 16 |
| 431 | 319 | 6.4326 | 1 | 3 | 5 | 7 | 12 |
| 432 | 475 | 4.7684 | 1 | 2 | 3 | 5 | 9 |
| 433 | 5522 | 3.0996 | 1 | 1 | 2 | 4 | 6 |
| 434 | 23062 | 5.0233 | 1 | 2 | 4 | 6 | 9 |
| 435 | 15012 | 4.1096 | 1 | 2 | 3 | 5 | 7 |
| 436 | 3158 | 12.8322 | 4 | 7 | 11 | 18 | 27 |
| 437 | 8588 | 8.6778 | 3 | 5 | 8 | 11 | 15 |
| 439 | 1356 | 8.3857 | 1 | 3 | 5 | 10 | 18 |
| 440 | 5191 | 9.0326 | 2 | 3 | 6 | 11 | 20 |

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY2000 MEDPAR update 03/01 Grouper V18.0 ]

| DRG | Number discharges | Arithmetic mean LOS | 10th percentile | 25th percentile | 50th percentile | 75th percentile | 90th percentile |
|---|---|---|---|---|---|---|---|
| 441 | 604 | 3.2235 | 1 | 1 | 2 | 4 | 7 |
| 442 | 15588 | 8.4766 | 1 | 3 | 6 | 10 | 18 |
| 443 | 3738 | 3.4315 | 1 | 1 | 3 | 4 | 7 |
| 444 | 5303 | 4.1495 | 1 | 2 | 3 | 5 | 8 |
| 445 | 2450 | 2.8857 | 1 | 1 | 2 | 4 | 5 |
| 447 | 5497 | 2.4708 | 1 | 1 | 2 | 3 | 5 |
| 449 | 28365 | 3.7491 | 1 | 1 | 3 | 5 | 8 |
| 450 | 6935 | 1.9981 | 1 | 1 | 1 | 2 | 4 |
| 451 | 3 | 1.3333 | 1 | 1 | 1 | 2 | 2 |
| 452 | 22930 | 4.8560 | 1 | 2 | 3 | 6 | 10 |
| 453 | 5095 | 2.7978 | 1 | 1 | 2 | 3 | 5 |
| 454 | 4001 | 4.5431 | 1 | 2 | 3 | 5 | 9 |
| 455 | 939 | 2.5751 | 1 | 1 | 2 | 3 | 5 |
| 461 | 3677 | 4.3723 | 1 | 1 | 2 | 5 | 11 |
| 462 | 13083 | 11.2728 | 4 | 6 | 10 | 14 | 21 |
| 463 | 22068 | 4.1282 | 1 | 2 | 3 | 5 | 8 |
| 464 | 6542 | 3.0011 | 1 | 1 | 2 | 4 | 6 |
| 465 | 248 | 3.0202 | 1 | 1 | 2 | 4 | 6 |
| 466 | 1741 | 3.7030 | 1 | 1 | 2 | 4 | 8 |
| 467 | 1137 | 3.0633 | 1 | 1 | 2 | 3 | 6 |
| 468 | 59766 | 12.9438 | 3 | 6 | 10 | 17 | 26 |
| 471 | 11720 | 5.5506 | 3 | 4 | 4 | 6 | 9 |
| 473 | 7663 | 12.5910 | 1 | 3 | 7 | 18 | 32 |
| 475 | 107894 | 11.2229 | 2 | 5 | 9 | 15 | 22 |
| 476 | 4142 | 10.8841 | 2 | 5 | 9 | 14 | 21 |
| 477 | 25336 | 8.1162 | 1 | 3 | 6 | 11 | 17 |
| 478 | 108852 | 7.3022 | 1 | 3 | 5 | 9 | 15 |
| 479 | 24100 | 3.4573 | 1 | 1 | 3 | 4 | 7 |
| 480 | 562 | 20.9609 | 7 | 9 | 14 | 25 | 44 |
| 481 | 383 | 24.1253 | 10 | 18 | 22 | 27 | 39 |
| 482 | 5733 | 12.9843 | 4 | 7 | 10 | 15 | 25 |
| 483 | 42784 | 39.4479 | 14 | 22 | 33 | 49 | 71 |
| 484 | 331 | 13.0091 | 2 | 6 | 10 | 17 | 26 |
| 485 | 2959 | 9.7080 | 4 | 5 | 7 | 11 | 18 |
| 486 | 2017 | 12.4408 | 1 | 5 | 10 | 16 | 25 |
| 487 | 3506 | 7.3945 | 1 | 3 | 6 | 10 | 15 |
| 488 | 784 | 16.9031 | 3 | 7 | 12 | 22 | 36 |
| 489 | 14140 | 8.4372 | 2 | 3 | 6 | 10 | 17 |
| 490 | 5449 | 5.3577 | 1 | 2 | 4 | 6 | 11 |
| 491 | 12291 | 3.4475 | 2 | 2 | 3 | 4 | 6 |
| 492 | 2698 | 15.6675 | 3 | 5 | 8 | 25 | 34 |
| 493 | 55279 | 5.7576 | 1 | 3 | 5 | 7 | 11 |
| 494 | 30109 | 2.4447 | 1 | 1 | 2 | 3 | 5 |
| 495 | 159 | 15.0503 | 7 | 9 | 12 | 17 | 26 |
| 496 | 1475 | 9.7349 | 4 | 5 | 7 | 12 | 19 |
| 497 | 22725 | 6.1720 | 2 | 3 | 5 | 7 | 12 |
| 498 | 21513 | 3.3043 | 1 | 2 | 3 | 4 | 6 |
| 499 | 31077 | 4.7330 | 1 | 2 | 3 | 6 | 9 |
| 500 | 44660 | 2.6198 | 1 | 1 | 2 | 3 | 5 |
| 501 | 2200 | 10.9600 | 4 | 6 | 8 | 13 | 21 |
| 502 | 585 | 6.5692 | 3 | 4 | 5 | 8 | 11 |
| 503 | 5631 | 4.0012 | 1 | 2 | 3 | 5 | 7 |
| 504 | 118 | 30.5169 | 9 | 15 | 24 | 41 | 55 |
| 505 | 145 | 3.3517 | 1 | 1 | 1 | 3 | 7 |
| 506 | 931 | 17.4071 | 4 | 8 | 14 | 22 | 36 |
| 507 | 293 | 8.3379 | 2 | 4 | 7 | 11 | 18 |
| 508 | 671 | 7.4918 | 2 | 3 | 5 | 9 | 15 |
| 509 | 177 | 4.5367 | 1 | 2 | 4 | 6 | 9 |
| 510 | 1650 | 7.2358 | 2 | 3 | 5 | 9 | 15 |
| 511 | 608 | 4.8158 | 1 | 2 | 3 | 6 | 11 |
| | 11079177 | | | | | | |

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY

[FY2000 MEDPAR update 03/01 Grouper V19.0]

| DRG | Number discharges | Arithmetic mean LOS | 10th percentile | 25th percentile | 50th percentile | 75th percentile | 90th percentile |
|---|---|---|---|---|---|---|---|
| 1 | 34040 | 9.0038 | 2 | 3 | 6 | 12 | 19 |
| 2 | 6862 | 9.9787 | 3 | 5 | 8 | 12 | 20 |
| 3 | 2 | 43.5000 | 35 | 35 | 52 | 52 | 52 |
| 4 | 6120 | 7.1526 | 1 | 2 | 5 | 9 | 15 |
| 5 | 93853 | 3.1665 | 1 | 1 | 2 | 3 | 7 |
| 6 | 365 | 2.9671 | 1 | 1 | 2 | 4 | 6 |
| 7 | 13283 | 9.8362 | 2 | 4 | 7 | 12 | 20 |
| 8 | 3821 | 2.9089 | 1 | 1 | 2 | 4 | 7 |
| 9 | 1631 | 6.3194 | 1 | 3 | 5 | 8 | 13 |
| 10 | 17754 | 6.5545 | 2 | 3 | 5 | 8 | 13 |
| 11 | 3157 | 4.0744 | 1 | 2 | 3 | 5 | 8 |
| 12 | 47063 | 5.9088 | 2 | 3 | 4 | 7 | 11 |
| 13 | 6504 | 5.1948 | 2 | 3 | 4 | 6 | 9 |
| 14 | 321622 | 5.8761 | 2 | 3 | 5 | 7 | 11 |
| 15 | 146291 | 3.5528 | 1 | 2 | 3 | 4 | 7 |
| 16 | 11235 | 6.0446 | 2 | 3 | 5 | 7 | 12 |
| 17 | 3532 | 3.3061 | 1 | 2 | 3 | 4 | 6 |
| 18 | 26608 | 5.4190 | 2 | 3 | 4 | 7 | 10 |
| 19 | 8346 | 3.6416 | 1 | 2 | 3 | 5 | 7 |
| 20 | 5680 | 10.1768 | 3 | 5 | 8 | 13 | 20 |
| 21 | 1324 | 6.5249 | 2 | 3 | 5 | 8 | 13 |
| 22 | 2560 | 4.8176 | 1 | 2 | 4 | 6 | 9 |
| 23 | 9553 | 4.1807 | 1 | 2 | 3 | 5 | 8 |
| 24 | 53313 | 4.9825 | 1 | 2 | 4 | 6 | 10 |
| 25 | 25528 | 3.2186 | 1 | 2 | 3 | 4 | 6 |
| 26 | 33 | 2.9091 | 1 | 1 | 2 | 4 | 6 |
| 27 | 3519 | 5.0673 | 1 | 1 | 3 | 6 | 11 |
| 28 | 11477 | 6.2222 | 1 | 3 | 5 | 8 | 13 |
| 29 | 4545 | 3.5982 | 1 | 2 | 3 | 5 | 7 |
| 30 | 1 | 1.0000 | 1 | 1 | 1 | 1 | 1 |
| 31 | 3576 | 4.4855 | 1 | 2 | 3 | 5 | 8 |
| 32 | 1770 | 2.5644 | 1 | 1 | 2 | 3 | 5 |
| 33 | 1 | 1.0000 | 1 | 1 | 1 | 1 | 1 |
| 34 | 20751 | 5.0759 | 1 | 2 | 4 | 6 | 10 |
| 35 | 5893 | 3.3743 | 1 | 2 | 3 | 4 | 6 |
| 36 | 3217 | 1.4719 | 1 | 1 | 1 | 1 | 2 |
| 37 | 1465 | 4.0348 | 1 | 1 | 2 | 5 | 9 |
| 38 | 102 | 2.6569 | 1 | 1 | 2 | 3 | 5 |
| 39 | 918 | 1.9379 | 1 | 1 | 1 | 2 | 4 |
| 40 | 1561 | 3.4209 | 1 | 1 | 2 | 4 | 7 |
| 42 | 2235 | 2.2859 | 1 | 1 | 1 | 3 | 5 |
| 43 | 85 | 3.1882 | 1 | 2 | 3 | 4 | 6 |
| 44 | 1244 | 4.9518 | 2 | 3 | 4 | 6 | 9 |
| 45 | 2464 | 3.1717 | 1 | 2 | 3 | 4 | 6 |
| 46 | 3102 | 4.6518 | 1 | 2 | 4 | 6 | 9 |
| 47 | 1284 | 3.2749 | 1 | 1 | 3 | 4 | 6 |
| 49 | 2266 | 4.8010 | 1 | 2 | 3 | 6 | 9 |
| 50 | 2507 | 1.9418 | 1 | 1 | 1 | 2 | 3 |
| 51 | 205 | 2.6927 | 1 | 1 | 1 | 2 | 6 |
| 52 | 224 | 1.9196 | 1 | 1 | 1 | 2 | 3 |
| 53 | 2512 | 3.5760 | 1 | 1 | 2 | 4 | 8 |
| 54 | 2 | 1.5000 | 1 | 1 | 2 | 2 | 2 |
| 55 | 1521 | 2.7331 | 1 | 1 | 1 | 3 | 6 |
| 56 | 517 | 2.7389 | 1 | 1 | 2 | 3 | 5 |
| 57 | 712 | 4.0478 | 1 | 1 | 2 | 5 | 9 |
| 59 | 107 | 2.7850 | 1 | 1 | 2 | 3 | 5 |
| 60 | 2 | 3.5000 | 2 | 2 | 5 | 5 | 5 |
| 61 | 234 | 5.1624 | 1 | 1 | 2 | 6 | 13 |
| 62 | 3 | 1.3333 | 1 | 1 | 1 | 2 | 2 |
| 63 | 3039 | 4.4399 | 1 | 2 | 3 | 5 | 9 |
| 64 | 3070 | 6.1642 | 1 | 2 | 4 | 8 | 13 |
| 65 | 34702 | 2.8444 | 1 | 1 | 2 | 4 | 5 |
| 66 | 7035 | 3.1599 | 1 | 1 | 2 | 4 | 6 |
| 67 | 501 | 3.5768 | 1 | 2 | 3 | 4 | 7 |
| 68 | 16804 | 4.1202 | 1 | 2 | 3 | 5 | 7 |
| 69 | 5465 | 3.2767 | 1 | 2 | 3 | 4 | 6 |
| 70 | 24 | 2.9167 | 1 | 2 | 2 | 4 | 5 |
| 71 | 82 | 3.8049 | 1 | 2 | 3 | 4 | 7 |
| 72 | 893 | 3.5566 | 1 | 2 | 3 | 4 | 6 |
| 73 | 6690 | 4.3988 | 1 | 2 | 3 | 6 | 9 |

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY2000 MEDPAR update 03/01 Grouper V19.0]

| DRG | Number discharges | Arithmetic mean LOS | 10th percentile | 25th percentile | 50th percentile | 75th percentile | 90th percentile |
|---|---|---|---|---|---|---|---|
| 75 | 39476 | 9.9112 | 3 | 5 | 7 | 12 | 19 |
| 76 | 40377 | 11.4074 | 3 | 5 | 9 | 14 | 22 |
| 77 | 2406 | 5.0000 | 1 | 2 | 4 | 7 | 10 |
| 78 | 32319 | 6.7837 | 3 | 4 | 6 | 8 | 11 |
| 79 | 170615 | 8.4963 | 3 | 4 | 7 | 11 | 16 |
| 80 | 8981 | 5.6562 | 2 | 3 | 5 | 7 | 10 |
| 81 | 4 | 18.2500 | 3 | 3 | 4 | 8 | 58 |
| 82 | 62447 | 6.9403 | 2 | 3 | 5 | 9 | 14 |
| 83 | 6598 | 5.5518 | 2 | 3 | 4 | 7 | 10 |
| 84 | 1539 | 3.3197 | 1 | 2 | 3 | 4 | 6 |
| 85 | 20738 | 6.3135 | 2 | 3 | 5 | 8 | 12 |
| 86 | 2115 | 3.6648 | 1 | 2 | 3 | 5 | 7 |
| 87 | 60486 | 6.2986 | 1 | 3 | 5 | 8 | 12 |
| 88 | 395676 | 5.1294 | 2 | 3 | 4 | 6 | 9 |
| 89 | 529122 | 5.9478 | 2 | 3 | 5 | 7 | 11 |
| 90 | 53985 | 4.1475 | 2 | 3 | 4 | 5 | 7 |
| 91 | 57 | 4.4561 | 2 | 2 | 3 | 5 | 9 |
| 92 | 13873 | 6.3521 | 2 | 3 | 5 | 8 | 12 |
| 93 | 1692 | 4.0969 | 1 | 2 | 3 | 5 | 7 |
| 94 | 12158 | 6.3088 | 2 | 3 | 5 | 8 | 12 |
| 95 | 1621 | 3.7224 | 1 | 2 | 3 | 5 | 7 |
| 96 | 62414 | 4.6281 | 2 | 3 | 4 | 6 | 8 |
| 97 | 31618 | 3.6509 | 1 | 2 | 3 | 5 | 7 |
| 98 | 17 | 4.3529 | 1 | 2 | 3 | 4 | 6 |
| 99 | 19205 | 3.2061 | 1 | 1 | 2 | 4 | 6 |
| 100 | 7656 | 2.1813 | 1 | 1 | 2 | 3 | 4 |
| 101 | 20236 | 4.3987 | 1 | 2 | 3 | 5 | 9 |
| 102 | 5196 | 2.6522 | 1 | 1 | 2 | 3 | 5 |
| 103 | 494 | 47.2510 | 9 | 13 | 25 | 61 | 102 |
| 104 | 19992 | 14.2362 | 6 | 8 | 12 | 17 | 25 |
| 105 | 26203 | 9.7712 | 4 | 6 | 8 | 11 | 17 |
| 106 | 3425 | 11.4923 | 5 | 7 | 10 | 14 | 20 |
| 107 | 88610 | 10.3724 | 5 | 7 | 9 | 12 | 17 |
| 108 | 6099 | 10.2140 | 3 | 5 | 8 | 13 | 19 |
| 109 | 60766 | 7.6912 | 4 | 5 | 6 | 9 | 12 |
| 110 | 53054 | 9.2130 | 2 | 5 | 7 | 11 | 18 |
| 111 | 8563 | 4.7507 | 1 | 2 | 5 | 6 | 8 |
| 113 | 42570 | 12.2362 | 3 | 6 | 9 | 15 | 24 |
| 114 | 8788 | 8.4208 | 2 | 4 | 7 | 11 | 16 |
| 115 | 14447 | 8.1481 | 1 | 4 | 7 | 11 | 16 |
| 116 | 101326 | 4.5123 | 1 | 2 | 3 | 6 | 9 |
| 117 | 3750 | 4.1997 | 1 | 1 | 2 | 5 | 9 |
| 118 | 7731 | 2.6831 | 1 | 1 | 1 | 3 | 6 |
| 119 | 1315 | 4.8783 | 1 | 1 | 3 | 6 | 12 |
| 120 | 37900 | 8.5509 | 1 | 2 | 6 | 11 | 19 |
| 121 | 163108 | 6.3828 | 2 | 3 | 5 | 8 | 12 |
| 122 | 79700 | 3.6981 | 1 | 2 | 3 | 5 | 7 |
| 123 | 40952 | 4.5870 | 1 | 1 | 3 | 6 | 11 |
| 124 | 133892 | 4.3434 | 1 | 2 | 3 | 5 | 8 |
| 125 | 80872 | 2.7656 | 1 | 1 | 2 | 4 | 5 |
| 126 | 5210 | 11.7196 | 3 | 6 | 9 | 15 | 22 |
| 127 | 683001 | 5.2764 | 2 | 3 | 4 | 7 | 10 |
| 128 | 9485 | 5.6128 | 2 | 4 | 5 | 7 | 9 |
| 129 | 4174 | 2.7513 | 1 | 1 | 1 | 3 | 6 |
| 130 | 87705 | 5.6725 | 2 | 3 | 5 | 7 | 10 |
| 131 | 27378 | 4.2134 | 1 | 2 | 4 | 6 | 7 |
| 132 | 148681 | 3.0010 | 1 | 1 | 2 | 4 | 6 |
| 133 | 8355 | 2.3246 | 1 | 1 | 2 | 3 | 4 |
| 134 | 36411 | 3.2406 | 1 | 2 | 3 | 4 | 6 |
| 135 | 7338 | 4.5492 | 1 | 2 | 3 | 6 | 9 |
| 136 | 1233 | 2.7178 | 1 | 1 | 2 | 3 | 5 |
| 138 | 195523 | 3.9935 | 1 | 2 | 3 | 5 | 8 |
| 139 | 82943 | 2.5030 | 1 | 1 | 2 | 3 | 5 |
| 140 | 70338 | 2.6538 | 1 | 1 | 2 | 3 | 5 |
| 141 | 91110 | 3.6692 | 1 | 2 | 3 | 5 | 7 |
| 142 | 45981 | 2.6476 | 1 | 1 | 2 | 3 | 5 |
| 143 | 205686 | 2.1259 | 1 | 1 | 2 | 3 | 4 |
| 144 | 82529 | 5.3248 | 1 | 2 | 4 | 7 | 11 |
| 145 | 7242 | 2.7331 | 1 | 1 | 2 | 3 | 5 |
| 146 | 10755 | 10.3134 | 5 | 7 | 9 | 12 | 17 |

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY2000 MEDPAR update 03/01 Grouper V19.0]

| DRG | Number discharges | Arithmetic mean LOS | 10th percentile | 25th percentile | 50th percentile | 75th percentile | 90th percentile |
|---|---|---|---|---|---|---|---|
| 147 | 2637 | 6.4137 | 3 | 5 | 6 | 8 | 9 |
| 148 | 130066 | 12.2031 | 5 | 7 | 10 | 15 | 22 |
| 149 | 18560 | 6.5100 | 4 | 5 | 6 | 8 | 9 |
| 150 | 19923 | 11.2795 | 4 | 7 | 10 | 14 | 20 |
| 151 | 4860 | 5.8123 | 2 | 3 | 5 | 8 | 10 |
| 152 | 4399 | 8.1444 | 3 | 5 | 7 | 9 | 14 |
| 153 | 2100 | 5.3838 | 3 | 4 | 5 | 7 | 8 |
| 154 | 28872 | 13.1709 | 4 | 7 | 10 | 16 | 25 |
| 155 | 6655 | 4.2026 | 1 | 2 | 3 | 6 | 8 |
| 156 | 4 | 7.5000 | 1 | 1 | 5 | 6 | 18 |
| 157 | 7963 | 5.3929 | 1 | 2 | 4 | 7 | 11 |
| 158 | 4671 | 2.5359 | 1 | 1 | 2 | 3 | 5 |
| 159 | 16456 | 4.9981 | 1 | 2 | 4 | 6 | 10 |
| 160 | 11727 | 2.6592 | 1 | 1 | 2 | 3 | 5 |
| 161 | 11208 | 4.2057 | 1 | 1 | 3 | 5 | 9 |
| 162 | 7217 | 1.9216 | 1 | 1 | 1 | 2 | 4 |
| 163 | 7 | 3.5714 | 1 | 1 | 2 | 3 | 4 |
| 164 | 4857 | 8.4293 | 4 | 5 | 7 | 10 | 15 |
| 165 | 2086 | 4.7895 | 2 | 3 | 5 | 6 | 8 |
| 166 | 3559 | 5.0441 | 2 | 2 | 4 | 6 | 10 |
| 167 | 3316 | 2.6001 | 1 | 2 | 2 | 3 | 5 |
| 168 | 1361 | 4.7649 | 1 | 2 | 3 | 6 | 10 |
| 169 | 843 | 2.3238 | 1 | 1 | 2 | 3 | 5 |
| 170 | 12291 | 10.9867 | 2 | 4 | 8 | 14 | 22 |
| 171 | 1408 | 4.5014 | 1 | 2 | 4 | 6 | 9 |
| 172 | 30682 | 6.9445 | 2 | 3 | 5 | 9 | 14 |
| 173 | 2707 | 3.6679 | 1 | 1 | 3 | 5 | 7 |
| 174 | 242053 | 4.7969 | 2 | 3 | 4 | 6 | 9 |
| 175 | 32431 | 2.9309 | 1 | 2 | 3 | 4 | 5 |
| 176 | 15194 | 5.2285 | 2 | 3 | 4 | 6 | 10 |
| 177 | 9272 | 4.5310 | 2 | 2 | 4 | 6 | 8 |
| 178 | 3619 | 3.0683 | 1 | 2 | 3 | 4 | 6 |
| 179 | 12384 | 5.9738 | 2 | 3 | 5 | 7 | 11 |
| 180 | 86181 | 5.3581 | 2 | 3 | 4 | 7 | 10 |
| 181 | 26423 | 3.4153 | 1 | 2 | 3 | 4 | 6 |
| 182 | 245515 | 4.3381 | 1 | 2 | 3 | 5 | 8 |
| 183 | 84480 | 2.9129 | 1 | 1 | 2 | 4 | 5 |
| 184 | 80 | 2.9500 | 1 | 2 | 2 | 4 | 6 |
| 185 | 4826 | 4.5089 | 1 | 2 | 3 | 6 | 9 |
| 186 | 3 | 9.3333 | 1 | 1 | 9 | 18 | 18 |
| 187 | 683 | 3.9253 | 1 | 1 | 3 | 5 | 8 |
| 188 | 76140 | 5.5645 | 1 | 2 | 4 | 7 | 11 |
| 189 | 12060 | 3.1404 | 1 | 1 | 2 | 4 | 6 |
| 190 | 51 | 6.9608 | 2 | 3 | 4 | 5 | 8 |
| 191 | 8941 | 13.8186 | 4 | 6 | 10 | 17 | 27 |
| 192 | 1122 | 6.5294 | 2 | 4 | 6 | 8 | 11 |
| 193 | 5303 | 12.5218 | 5 | 7 | 10 | 16 | 22 |
| 194 | 721 | 6.7906 | 2 | 4 | 6 | 8 | 12 |
| 195 | 4350 | 10.1616 | 4 | 6 | 9 | 12 | 17 |
| 196 | 1166 | 5.7196 | 2 | 4 | 5 | 7 | 10 |
| 197 | 18895 | 8.9383 | 3 | 5 | 7 | 11 | 16 |
| 198 | 5786 | 4.5380 | 2 | 3 | 4 | 6 | 8 |
| 199 | 1725 | 9.6614 | 2 | 4 | 7 | 13 | 21 |
| 200 | 1081 | 10.3478 | 1 | 3 | 7 | 13 | 23 |
| 201 | 1431 | 13.7393 | 3 | 6 | 11 | 17 | 27 |
| 202 | 26168 | 6.4060 | 2 | 3 | 5 | 8 | 13 |
| 203 | 29251 | 6.6384 | 2 | 3 | 5 | 9 | 13 |
| 204 | 57757 | 5.7995 | 2 | 3 | 4 | 7 | 11 |
| 205 | 23128 | 6.1790 | 2 | 3 | 5 | 8 | 12 |
| 206 | 1970 | 3.8959 | 1 | 2 | 3 | 5 | 7 |
| 207 | 31072 | 5.0836 | 1 | 2 | 4 | 6 | 10 |
| 208 | 10149 | 2.8924 | 1 | 1 | 2 | 4 | 6 |
| 209 | 345519 | 5.0794 | 3 | 3 | 4 | 6 | 8 |
| 210 | 121933 | 6.8207 | 3 | 4 | 6 | 8 | 11 |
| 211 | 31780 | 4.9358 | 3 | 4 | 4 | 6 | 7 |
| 212 | 8 | 10.5000 | 1 | 1 | 4 | 9 | 29 |
| 213 | 9241 | 9.0019 | 2 | 4 | 7 | 11 | 18 |
| 216 | 6008 | 9.6949 | 2 | 4 | 8 | 12 | 20 |
| 217 | 16558 | 13.2636 | 3 | 5 | 9 | 16 | 28 |
| 218 | 21621 | 5.4328 | 2 | 3 | 4 | 7 | 10 |

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY2000 MEDPAR update 03/01 Grouper V19.0]

| DRG | Number discharges | Arithmetic mean LOS | 10th percentile | 25th percentile | 50th percentile | 75th percentile | 90th percentile |
|---|---|---|---|---|---|---|---|
| 219 | 19714 | 3.2188 | 1 | 2 | 3 | 4 | 6 |
| 220 | 6 | 4.0000 | 1 | 1 | 3 | 7 | 7 |
| 223 | 13397 | 2.8551 | 1 | 1 | 2 | 3 | 6 |
| 224 | 11274 | 1.9346 | 1 | 1 | 2 | 2 | 3 |
| 225 | 5805 | 4.8558 | 1 | 2 | 3 | 6 | 11 |
| 226 | 5230 | 6.5887 | 1 | 2 | 4 | 8 | 14 |
| 227 | 4702 | 2.7052 | 1 | 1 | 2 | 3 | 5 |
| 228 | 2373 | 3.7981 | 1 | 1 | 2 | 5 | 8 |
| 229 | 1118 | 2.4785 | 1 | 1 | 2 | 3 | 5 |
| 230 | 2395 | 5.2551 | 1 | 2 | 3 | 6 | 11 |
| 231 | 11467 | 4.9383 | 1 | 2 | 3 | 6 | 11 |
| 232 | 811 | 2.8792 | 1 | 1 | 1 | 3 | 7 |
| 233 | 5159 | 7.5251 | 1 | 3 | 6 | 10 | 15 |
| 234 | 3186 | 3.4203 | 1 | 1 | 3 | 4 | 7 |
| 235 | 5095 | 5.1460 | 1 | 2 | 4 | 6 | 9 |
| 236 | 38644 | 4.8192 | 1 | 3 | 4 | 6 | 9 |
| 237 | 1698 | 3.4953 | 1 | 2 | 3 | 4 | 6 |
| 238 | 8028 | 8.5896 | 3 | 4 | 6 | 10 | 16 |
| 239 | 49410 | 6.2190 | 2 | 3 | 5 | 8 | 12 |
| 240 | 11462 | 6.6902 | 2 | 3 | 5 | 8 | 13 |
| 241 | 3138 | 3.8368 | 1 | 2 | 3 | 5 | 7 |
| 242 | 2455 | 6.6550 | 2 | 3 | 5 | 8 | 13 |
| 243 | 88325 | 4.6695 | 1 | 2 | 4 | 6 | 9 |
| 244 | 12281 | 4.8027 | 1 | 2 | 4 | 6 | 9 |
| 245 | 5158 | 3.4420 | 1 | 2 | 3 | 4 | 6 |
| 246 | 1402 | 3.8759 | 1 | 2 | 3 | 5 | 7 |
| 247 | 16979 | 3.4022 | 1 | 1 | 3 | 4 | 7 |
| 248 | 10612 | 4.8149 | 1 | 2 | 4 | 6 | 9 |
| 249 | 11431 | 3.6726 | 1 | 1 | 2 | 4 | 8 |
| 250 | 3495 | 4.1021 | 1 | 2 | 3 | 5 | 7 |
| 251 | 2432 | 2.8647 | 1 | 1 | 2 | 4 | 5 |
| 253 | 19997 | 4.7768 | 1 | 3 | 4 | 6 | 9 |
| 254 | 10514 | 3.1844 | 1 | 2 | 3 | 4 | 6 |
| 255 | 1 | 3.0000 | 3 | 3 | 3 | 3 | 3 |
| 256 | 6097 | 5.0576 | 1 | 2 | 4 | 6 | 10 |
| 257 | 16468 | 2.7380 | 1 | 1 | 2 | 3 | 5 |
| 258 | 16096 | 1.9335 | 1 | 1 | 2 | 2 | 3 |
| 259 | 3805 | 2.6915 | 1 | 1 | 1 | 2 | 6 |
| 260 | 4920 | 1.4191 | 1 | 1 | 1 | 2 | 2 |
| 261 | 1875 | 2.2704 | 1 | 1 | 1 | 3 | 5 |
| 262 | 622 | 3.9807 | 1 | 1 | 3 | 5 | 8 |
| 263 | 23616 | 11.6630 | 3 | 5 | 8 | 14 | 23 |
| 264 | 4081 | 7.0034 | 2 | 3 | 5 | 8 | 14 |
| 265 | 3785 | 6.7974 | 1 | 2 | 4 | 8 | 14 |
| 266 | 2669 | 3.2345 | 1 | 1 | 2 | 4 | 7 |
| 267 | 233 | 4.2060 | 1 | 1 | 3 | 6 | 9 |
| 268 | 910 | 3.5824 | 1 | 1 | 2 | 4 | 7 |
| 269 | 8868 | 8.2049 | 2 | 3 | 6 | 10 | 17 |
| 270 | 2662 | 3.4530 | 1 | 1 | 2 | 4 | 7 |
| 271 | 20588 | 7.1370 | 2 | 4 | 6 | 9 | 13 |
| 272 | 5506 | 6.1593 | 2 | 3 | 5 | 8 | 12 |
| 273 | 1290 | 4.0233 | 1 | 2 | 3 | 5 | 8 |
| 274 | 2357 | 6.5965 | 1 | 3 | 5 | 8 | 13 |
| 275 | 249 | 4.3373 | 1 | 1 | 3 | 5 | 9 |
| 276 | 1189 | 4.7258 | 1 | 2 | 4 | 6 | 8 |
| 277 | 88891 | 5.7267 | 2 | 3 | 5 | 7 | 10 |
| 278 | 30673 | 4.3084 | 2 | 3 | 4 | 5 | 8 |
| 279 | 3 | 2.3333 | 1 | 1 | 2 | 4 | 4 |
| 280 | 15826 | 4.1974 | 1 | 2 | 3 | 5 | 8 |
| 281 | 7203 | 3.0314 | 1 | 1 | 3 | 4 | 6 |
| 282 | 3 | 1.6667 | 1 | 1 | 2 | 2 | 2 |
| 283 | 5701 | 4.5869 | 1 | 2 | 4 | 6 | 9 |
| 284 | 1863 | 3.0934 | 1 | 1 | 2 | 4 | 6 |
| 285 | 6259 | 10.2903 | 3 | 5 | 8 | 13 | 20 |
| 286 | 2081 | 6.4248 | 2 | 3 | 5 | 7 | 13 |
| 287 | 5745 | 10.5220 | 3 | 5 | 7 | 12 | 21 |
| 288 | 2705 | 5.7360 | 2 | 3 | 4 | 6 | 9 |
| 289 | 4801 | 3.0165 | 1 | 1 | 2 | 3 | 7 |
| 290 | 8818 | 2.3115 | 1 | 1 | 2 | 2 | 4 |
| 291 | 66 | 1.8333 | 1 | 1 | 1 | 2 | 3 |

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY2000 MEDPAR update 03/01 Grouper V19.0]

| DRG | Number discharges | Arithmetic mean LOS | 10th percentile | 25th percentile | 50th percentile | 75th percentile | 90th percentile |
|---|---|---|---|---|---|---|---|
| 292 | 4994 | 10.2367 | 2 | 4 | 8 | 13 | 20 |
| 293 | 385 | 5.3714 | 1 | 2 | 4 | 7 | 11 |
| 294 | 88615 | 4.6095 | 1 | 2 | 4 | 6 | 9 |
| 295 | 3318 | 3.7372 | 1 | 2 | 3 | 5 | 7 |
| 296 | 240050 | 5.1602 | 2 | 2 | 4 | 6 | 10 |
| 297 | 44040 | 3.4064 | 1 | 2 | 3 | 4 | 6 |
| 298 | 95 | 2.9158 | 1 | 1 | 2 | 4 | 5 |
| 299 | 1192 | 5.3079 | 1 | 2 | 4 | 7 | 11 |
| 300 | 16118 | 6.1471 | 2 | 3 | 5 | 8 | 12 |
| 301 | 3221 | 3.6107 | 1 | 2 | 3 | 4 | 7 |
| 302 | 7924 | 8.8892 | 4 | 5 | 7 | 10 | 15 |
| 303 | 19568 | 8.4192 | 4 | 5 | 7 | 10 | 15 |
| 304 | 11900 | 8.7432 | 2 | 4 | 6 | 11 | 18 |
| 305 | 3011 | 3.6430 | 1 | 2 | 3 | 5 | 7 |
| 306 | 7368 | 5.6221 | 1 | 2 | 3 | 8 | 13 |
| 307 | 2096 | 2.2457 | 1 | 1 | 2 | 3 | 4 |
| 308 | 7520 | 6.2090 | 1 | 2 | 4 | 8 | 14 |
| 309 | 4120 | 2.2998 | 1 | 1 | 2 | 3 | 4 |
| 310 | 24033 | 4.4040 | 1 | 1 | 3 | 6 | 10 |
| 311 | 8027 | 1.8343 | 1 | 1 | 1 | 2 | 3 |
| 312 | 1499 | 4.4957 | 1 | 1 | 3 | 6 | 10 |
| 313 | 594 | 2.3300 | 1 | 1 | 1 | 3 | 5 |
| 314 | 1 | 3.0000 | 3 | 3 | 3 | 3 | 3 |
| 315 | 30492 | 7.1080 | 1 | 1 | 4 | 9 | 16 |
| 316 | 105482 | 6.6227 | 2 | 3 | 5 | 8 | 13 |
| 317 | 1536 | 2.8561 | 1 | 1 | 2 | 3 | 6 |
| 318 | 5627 | 6.0105 | 1 | 3 | 5 | 8 | 12 |
| 319 | 428 | 2.7477 | 1 | 1 | 2 | 3 | 6 |
| 320 | 188146 | 5.3180 | 2 | 3 | 4 | 6 | 10 |
| 321 | 30418 | 3.7849 | 1 | 2 | 3 | 5 | 7 |
| 322 | 61 | 4.1475 | 2 | 2 | 3 | 5 | 8 |
| 323 | 17410 | 3.2221 | 1 | 1 | 2 | 4 | 7 |
| 324 | 7562 | 1.8803 | 1 | 1 | 1 | 2 | 3 |
| 325 | 8239 | 3.8229 | 1 | 2 | 3 | 5 | 7 |
| 326 | 2705 | 2.6699 | 1 | 1 | 2 | 3 | 5 |
| 327 | 11 | 3.0909 | 1 | 1 | 3 | 4 | 5 |
| 328 | 668 | 3.6722 | 1 | 1 | 3 | 5 | 8 |
| 329 | 76 | 2.0000 | 1 | 1 | 1 | 2 | 4 |
| 331 | 46575 | 5.5475 | 1 | 3 | 4 | 7 | 11 |
| 332 | 4939 | 3.2909 | 1 | 1 | 2 | 4 | 7 |
| 333 | 290 | 4.9828 | 1 | 2 | 3 | 6 | 10 |
| 334 | 10491 | 4.8593 | 2 | 3 | 4 | 6 | 8 |
| 335 | 11916 | 3.3087 | 2 | 2 | 3 | 4 | 5 |
| 336 | 37713 | 3.4950 | 1 | 2 | 2 | 4 | 7 |
| 337 | 30390 | 2.1186 | 1 | 1 | 2 | 3 | 3 |
| 338 | 1232 | 5.1080 | 1 | 2 | 3 | 7 | 11 |
| 339 | 1628 | 4.6161 | 1 | 1 | 3 | 6 | 11 |
| 340 | 1 | 1.0000 | 1 | 1 | 1 | 1 | 1 |
| 341 | 3766 | 3.0316 | 1 | 1 | 2 | 3 | 6 |
| 342 | 675 | 3.2207 | 1 | 2 | 2 | 4 | 6 |
| 344 | 3519 | 2.3743 | 1 | 1 | 1 | 2 | 5 |
| 345 | 1280 | 3.7914 | 1 | 1 | 2 | 4 | 8 |
| 346 | 4489 | 5.9082 | 1 | 3 | 4 | 7 | 12 |
| 347 | 366 | 2.9372 | 1 | 1 | 2 | 4 | 6 |
| 348 | 3077 | 4.1677 | 1 | 2 | 3 | 5 | 8 |
| 349 | 626 | 2.5335 | 1 | 1 | 2 | 3 | 5 |
| 350 | 6325 | 4.4024 | 1 | 2 | 4 | 5 | 8 |
| 352 | 766 | 3.9621 | 1 | 2 | 3 | 5 | 8 |
| 353 | 2557 | 6.4490 | 2 | 3 | 5 | 7 | 12 |
| 354 | 7609 | 5.8406 | 3 | 3 | 4 | 7 | 11 |
| 355 | 5530 | 3.2790 | 2 | 3 | 3 | 4 | 5 |
| 356 | 25303 | 2.2920 | 1 | 1 | 2 | 3 | 4 |
| 357 | 5580 | 8.4925 | 3 | 4 | 7 | 10 | 16 |
| 358 | 20492 | 4.3132 | 2 | 3 | 3 | 5 | 7 |
| 359 | 30149 | 2.7284 | 2 | 2 | 3 | 3 | 4 |
| 360 | 16035 | 2.8549 | 1 | 2 | 2 | 3 | 5 |
| 361 | 386 | 2.9948 | 1 | 1 | 2 | 3 | 5 |
| 363 | 2875 | 3.4650 | 1 | 2 | 2 | 3 | 7 |
| 364 | 1666 | 3.8427 | 1 | 1 | 3 | 5 | 8 |
| 365 | 1737 | 7.2239 | 1 | 3 | 5 | 9 | 16 |

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY2000 MEDPAR update 03/01 Grouper V19.0]

| DRG | Number discharges | Arithmetic mean LOS | 10th percentile | 25th percentile | 50th percentile | 75th percentile | 90th percentile |
|---|---|---|---|---|---|---|---|
| 366 | 4468 | 6.7258 | 1 | 3 | 5 | 8 | 14 |
| 367 | 584 | 3.1284 | 1 | 1 | 2 | 4 | 6 |
| 368 | 3136 | 6.4716 | 2 | 3 | 5 | 8 | 12 |
| 369 | 3178 | 3.2498 | 1 | 1 | 2 | 4 | 7 |
| 370 | 1151 | 5.9079 | 3 | 3 | 4 | 5 | 10 |
| 371 | 1368 | 3.6447 | 2 | 3 | 3 | 4 | 5 |
| 372 | 964 | 3.2811 | 1 | 2 | 2 | 3 | 5 |
| 373 | 3920 | 2.2487 | 1 | 2 | 2 | 3 | 3 |
| 374 | 130 | 3.0846 | 1 | 2 | 2 | 3 | 4 |
| 375 | 11 | 2.2727 | 1 | 2 | 2 | 2 | 4 |
| 376 | 249 | 3.0843 | 1 | 2 | 2 | 4 | 6 |
| 377 | 51 | 5.0392 | 1 | 1 | 4 | 6 | 12 |
| 378 | 158 | 2.4177 | 1 | 1 | 2 | 3 | 4 |
| 379 | 344 | 3.4506 | 1 | 1 | 2 | 4 | 6 |
| 380 | 60 | 2.0833 | 1 | 1 | 1 | 2 | 5 |
| 381 | 154 | 2.5065 | 1 | 1 | 1 | 3 | 5 |
| 382 | 45 | 1.2889 | 1 | 1 | 1 | 1 | 2 |
| 383 | 1746 | 3.6174 | 1 | 1 | 2 | 4 | 8 |
| 384 | 121 | 2.1488 | 1 | 1 | 1 | 2 | 4 |
| 385 | 1 | 1.0000 | 1 | 1 | 1 | 1 | 1 |
| 389 | 16 | 13.5000 | 1 | 3 | 6 | 11 | 24 |
| 390 | 14 | 4.0000 | 1 | 2 | 3 | 6 | 7 |
| 391 | 1 | 4.0000 | 4 | 4 | 4 | 4 | 4 |
| 392 | 2349 | 9.6841 | 3 | 4 | 7 | 12 | 20 |
| 394 | 1891 | 7.1364 | 1 | 2 | 4 | 8 | 16 |
| 395 | 87678 | 4.4004 | 1 | 2 | 3 | 6 | 9 |
| 396 | 15 | 4.6667 | 1 | 2 | 4 | 6 | 7 |
| 397 | 17705 | 5.1893 | 1 | 2 | 4 | 7 | 10 |
| 398 | 17713 | 5.9510 | 2 | 3 | 5 | 7 | 11 |
| 399 | 1727 | 3.5634 | 1 | 2 | 3 | 5 | 7 |
| 400 | 6490 | 9.1307 | 1 | 3 | 6 | 12 | 20 |
| 401 | 5622 | 11.2782 | 2 | 5 | 9 | 15 | 23 |
| 402 | 1500 | 4.0933 | 1 | 1 | 3 | 6 | 9 |
| 403 | 31997 | 8.0849 | 2 | 3 | 6 | 10 | 17 |
| 404 | 4670 | 4.2621 | 1 | 2 | 3 | 6 | 9 |
| 406 | 2527 | 9.9201 | 3 | 4 | 7 | 12 | 21 |
| 407 | 723 | 4.4219 | 1 | 2 | 4 | 5 | 8 |
| 408 | 2196 | 8.0255 | 1 | 2 | 5 | 10 | 18 |
| 409 | 2831 | 5.9325 | 2 | 3 | 4 | 6 | 12 |
| 410 | 33654 | 3.9062 | 1 | 2 | 4 | 5 | 6 |
| 411 | 13 | 2.3077 | 1 | 1 | 2 | 2 | 5 |
| 412 | 30 | 2.4000 | 1 | 1 | 2 | 3 | 4 |
| 413 | 6491 | 7.0875 | 2 | 3 | 5 | 9 | 14 |
| 414 | 782 | 4.2813 | 1 | 2 | 3 | 5 | 9 |
| 415 | 39080 | 14.3464 | 4 | 6 | 11 | 18 | 28 |
| 416 | 184735 | 7.3935 | 2 | 4 | 6 | 9 | 14 |
| 417 | 18 | 5.0000 | 1 | 2 | 4 | 7 | 9 |
| 418 | 23026 | 6.1212 | 2 | 3 | 5 | 7 | 11 |
| 419 | 15460 | 4.7254 | 2 | 2 | 4 | 6 | 9 |
| 420 | 3116 | 3.4881 | 1 | 2 | 3 | 4 | 6 |
| 421 | 11535 | 3.7877 | 1 | 2 | 3 | 5 | 7 |
| 422 | 83 | 3.0482 | 1 | 2 | 3 | 4 | 6 |
| 423 | 7539 | 8.1108 | 2 | 3 | 6 | 10 | 16 |
| 424 | 1308 | 13.6338 | 2 | 5 | 9 | 16 | 26 |
| 425 | 15852 | 3.9953 | 1 | 2 | 3 | 5 | 8 |
| 426 | 4552 | 4.4512 | 1 | 2 | 3 | 5 | 9 |
| 427 | 1669 | 4.6207 | 1 | 2 | 3 | 6 | 9 |
| 428 | 854 | 6.9859 | 1 | 2 | 4 | 8 | 14 |
| 429 | 26786 | 6.3438 | 2 | 3 | 5 | 7 | 12 |
| 430 | 59892 | 8.0207 | 2 | 3 | 6 | 10 | 16 |
| 431 | 319 | 6.4326 | 1 | 3 | 5 | 7 | 12 |
| 432 | 475 | 4.7684 | 1 | 2 | 3 | 5 | 9 |
| 433 | 5522 | 3.0996 | 1 | 1 | 2 | 4 | 6 |
| 439 | 1356 | 8.3857 | 1 | 3 | 5 | 10 | 18 |
| 440 | 5191 | 9.0326 | 2 | 3 | 6 | 11 | 20 |
| 441 | 604 | 3.2235 | 1 | 1 | 2 | 4 | 7 |
| 442 | 15588 | 8.4766 | 1 | 3 | 6 | 10 | 18 |
| 443 | 3743 | 3.4320 | 1 | 1 | 3 | 4 | 7 |
| 444 | 5303 | 4.1495 | 1 | 2 | 3 | 5 | 8 |
| 445 | 2450 | 2.8857 | 1 | 1 | 2 | 4 | 5 |

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY2000 MEDPAR update 03/01 Grouper V19.0]

| DRG | Number discharges | Arithmetic mean LOS | 10th percentile | 25th percentile | 50th percentile | 75th percentile | 90th percentile |
|---|---|---|---|---|---|---|---|
| 447 | 5497 | 2.4708 | 1 | 1 | 2 | 3 | 5 |
| 449 | 28365 | 3.7491 | 1 | 1 | 3 | 5 | 8 |
| 450 | 6934 | 1.9980 | 1 | 1 | 1 | 2 | 4 |
| 451 | 3 | 1.3333 | 1 | 1 | 1 | 2 | 2 |
| 452 | 22930 | 4.8560 | 1 | 2 | 3 | 6 | 10 |
| 453 | 5091 | 2.7969 | 1 | 1 | 2 | 3 | 5 |
| 454 | 4001 | 4.5431 | 1 | 2 | 3 | 5 | 9 |
| 455 | 939 | 2.5751 | 1 | 1 | 2 | 3 | 5 |
| 461 | 3676 | 4.3708 | 1 | 1 | 2 | 5 | 11 |
| 462 | 13083 | 11.2728 | 4 | 6 | 10 | 14 | 21 |
| 463 | 22068 | 4.1282 | 1 | 2 | 3 | 5 | 8 |
| 464 | 6542 | 3.0011 | 1 | 1 | 2 | 4 | 6 |
| 465 | 248 | 3.0202 | 1 | 1 | 2 | 4 | 6 |
| 466 | 1741 | 3.7030 | 1 | 1 | 2 | 4 | 8 |
| 467 | 1137 | 3.0633 | 1 | 1 | 2 | 3 | 6 |
| 468 | 55027 | 12.8995 | 3 | 6 | 10 | 16 | 26 |
| 471 | 11720 | 5.5506 | 3 | 4 | 4 | 6 | 9 |
| 473 | 7663 | 12.5910 | 1 | 3 | 7 | 18 | 32 |
| 475 | 107894 | 11.2229 | 2 | 5 | 9 | 15 | 22 |
| 476 | 4151 | 10.8829 | 2 | 5 | 9 | 14 | 21 |
| 477 | 25363 | 8.1252 | 1 | 3 | 6 | 11 | 17 |
| 478 | 108182 | 7.2900 | 1 | 3 | 5 | 9 | 15 |
| 479 | 24051 | 3.4569 | 1 | 1 | 3 | 4 | 7 |
| 480 | 562 | 20.9609 | 7 | 9 | 14 | 25 | 44 |
| 481 | 383 | 24.1253 | 10 | 18 | 22 | 27 | 39 |
| 482 | 5737 | 12.9796 | 4 | 7 | 10 | 15 | 25 |
| 483 | 42789 | 39.4482 | 14 | 22 | 33 | 49 | 71 |
| 484 | 331 | 13.0091 | 2 | 6 | 10 | 17 | 26 |
| 485 | 2959 | 9.7080 | 4 | 5 | 7 | 11 | 18 |
| 486 | 2017 | 12.4408 | 1 | 5 | 10 | 16 | 25 |
| 487 | 3506 | 7.3945 | 1 | 3 | 6 | 10 | 15 |
| 488 | 784 | 16.9031 | 3 | 7 | 12 | 22 | 36 |
| 489 | 14140 | 8.4372 | 2 | 3 | 6 | 10 | 17 |
| 490 | 5454 | 5.3577 | 1 | 2 | 4 | 6 | 11 |
| 491 | 12291 | 3.4475 | 2 | 2 | 3 | 4 | 6 |
| 492 | 2698 | 15.6675 | 3 | 5 | 8 | 25 | 34 |
| 493 | 55279 | 5.7576 | 1 | 3 | 5 | 7 | 11 |
| 494 | 30109 | 2.4447 | 1 | 1 | 2 | 3 | 5 |
| 495 | 159 | 15.0503 | 7 | 9 | 12 | 17 | 26 |
| 496 | 1504 | 9.7088 | 4 | 5 | 7 | 12 | 19 |
| 497 | 17585 | 6.5739 | 3 | 4 | 5 | 7 | 11 |
| 498 | 12931 | 4.1718 | 2 | 3 | 4 | 5 | 6 |
| 499 | 30519 | 4.7011 | 1 | 2 | 3 | 6 | 9 |
| 500 | 44330 | 2.6104 | 1 | 1 | 2 | 3 | 5 |
| 501 | 2200 | 10.9600 | 4 | 6 | 8 | 13 | 21 |
| 502 | 585 | 6.5692 | 3 | 4 | 5 | 8 | 11 |
| 503 | 5630 | 4.0014 | 1 | 2 | 3 | 5 | 7 |
| 504 | 118 | 30.5169 | 9 | 15 | 24 | 41 | 55 |
| 505 | 145 | 3.3517 | 1 | 1 | 1 | 3 | 7 |
| 506 | 931 | 17.4071 | 4 | 8 | 14 | 22 | 36 |
| 507 | 293 | 8.3379 | 2 | 4 | 7 | 11 | 18 |
| 508 | 671 | 7.4918 | 2 | 3 | 5 | 9 | 15 |
| 509 | 177 | 4.5367 | 1 | 2 | 4 | 6 | 9 |
| 510 | 1650 | 7.2358 | 2 | 3 | 5 | 9 | 15 |
| 511 | 608 | 4.8158 | 1 | 2 | 3 | 6 | 11 |
| 512 | 340 | 13.8971 | 7 | 8 | 11 | 16 | 25 |
| 513 | 115 | 10.6000 | 6 | 7 | 8 | 11 | 19 |
| 514 | 17025 | 7.8702 | 2 | 3 | 6 | 10 | 16 |
| 515 | 3788 | 5.9060 | 1 | 1 | 4 | 8 | 13 |
| 516 | 68886 | 4.7702 | 2 | 3 | 4 | 6 | 9 |
| 517 | 171423 | 2.6737 | 1 | 1 | 2 | 3 | 6 |
| 518 | 48733 | 3.5023 | 1 | 1 | 2 | 4 | 8 |
| 519 | 6359 | 5.1030 | 1 | 2 | 3 | 6 | 12 |
| 520 | 9489 | 2.1653 | 1 | 1 | 2 | 3 | 4 |
| 521 | 28014 | 5.9437 | 2 | 3 | 4 | 7 | 12 |
| 522 | 6852 | 9.4658 | 3 | 5 | 8 | 12 | 20 |
| 523 | 14954 | 4.0942 | 1 | 2 | 3 | 5 | 7 |
| | 11094323 | | | | | | |

TABLE 8A.—STATEWIDE AVERAGE OPERATING COST-TO-CHARGE RATIOS FOR URBAN AND RURAL HOSPITALS (CASE WEIGHTED) JULY 2001

| State | Urban | Rural |
|---|---|---|
| ALABAMA | 0.343 | 0.410 |
| ALASKA | 0.417 | 0.697 |
| ARIZONA | 0.355 | 0.493 |
| ARKANSAS | 0.466 | 0.445 |
| CALIFORNIA | 0.339 | 0.432 |
| COLORADO | 0.422 | 0.577 |
| CONNECTICUT | 0.497 | 0.506 |
| DELAWARE | 0.511 | 0.450 |
| DISTRICT OF COLUMBIA | 0.421 | ..... |
| FLORIDA | 0.351 | 0.370 |
| GEORGIA | 0.461 | 0.469 |
| HAWAII | 0.412 | 0.549 |
| IDAHO | 0.541 | 0.561 |
| ILLINOIS | 0.404 | 0.501 |
| INDIANA | 0.524 | 0.533 |
| IOWA | 0.486 | 0.613 |
| KANSAS | 0.415 | 0.637 |
| KENTUCKY | 0.479 | 0.492 |
| LOUISIANA | 0.401 | 0.491 |
| MAINE | 0.614 | 0.540 |
| MARYLAND | 0.759 | 0.819 |
| MASSACHUSETTS | 0.511 | 0.571 |
| MICHIGAN | 0.459 | 0.563 |
| MINNESOTA | 0.493 | 0.592 |
| MISSISSIPPI | 0.452 | 0.446 |
| MISSOURI | 0.404 | 0.475 |
| MONTANA | 0.537 | 0.588 |
| NEBRASKA | 0.448 | 0.610 |
| NEVADA | 0.306 | 0.503 |
| NEW HAMPSHIRE | 0.549 | 0.585 |
| NEW JERSEY | 0.394 | ..... |
| NEW MEXICO | 0.466 | 0.491 |
| NEW YORK | 0.524 | 0.607 |
| NORTH CAROLINA | 0.517 | 0.463 |
| NORTH DAKOTA | 0.620 | 0.655 |
| OHIO | 0.500 | 0.568 |
| OKLAHOMA | 0.409 | 0.492 |
| OREGON | 0.614 | 0.598 |
| PENNSYLVANIA | 0.398 | 0.526 |
| PUERTO RICO | 0.486 | 0.584 |
| RHODE ISLAND | 0.510 | ..... |
| SOUTH CAROLINA | 0.440 | 0.463 |
| SOUTH DAKOTA | 0.529 | 0.640 |
| TENNESSEE | 0.438 | 0.453 |
| TEXAS | 0.401 | 0.493 |
| UTAH | 0.497 | 0.582 |
| VERMONT | 0.572 | 0.599 |
| VIRGINIA | 0.459 | 0.496 |
| WASHINGTON | 0.582 | 0.639 |
| WEST VIRGINIA | 0.568 | 0.527 |
| WISCONSIN | 0.524 | 0.613 |
| WYOMING | 0.523 | 0.717 |

TABLE 8B.—STATEWIDE AVERAGE CAPITAL COST-TO-CHARGE RATIOS (CASE WEIGHTED) JULY 2001

| State | Ratio |
|---|---|
| ALABAMA | 0.044 |
| ALASKA | 0.058 |
| ARIZONA | 0.038 |
| ARKANSAS | 0.049 |
| CALIFORNIA | 0.034 |
| COLORADO | 0.045 |
| CONNECTICUT | 0.036 |
| DELAWARE | 0.051 |

TABLE 8B.—STATEWIDE AVERAGE CAPITAL COST-TO-CHARGE RATIOS (CASE WEIGHTED) JULY 2001—Continued

| State | Ratio |
|---|---|
| DISTRICT OF COLUMBIA | 0.035 |
| FLORIDA | 0.043 |
| GEORGIA | 0.051 |
| HAWAII | 0.038 |
| IDAHO | 0.046 |
| ILLINOIS | 0.040 |
| INDIANA | 0.056 |
| IOWA | 0.049 |
| KANSAS | 0.050 |
| KENTUCKY | 0.046 |
| LOUISIANA | 0.047 |
| MAINE | 0.040 |
| MARYLAND | 0.013 |
| MASSACHUSETTS | 0.053 |
| MICHIGAN | 0.044 |
| MINNESOTA | 0.047 |
| MISSISSIPPI | 0.044 |
| MISSOURI | 0.044 |
| MONTANA | 0.053 |
| NEBRASKA | 0.054 |
| NEVADA | 0.030 |
| NEW HAMPSHIRE | 0.061 |
| NEW JERSEY | 0.036 |
| NEW MEXICO | 0.045 |
| NEW YORK | 0.051 |
| NORTH CAROLINA | 0.046 |
| NORTH DAKOTA | 0.074 |
| OHIO | 0.047 |
| OKLAHOMA | 0.046 |
| OREGON | 0.046 |
| PENNSYLVANIA | 0.039 |
| PUERTO RICO | 0.045 |
| RHODE ISLAND | 0.029 |
| SOUTH CAROLINA | 0.046 |
| SOUTH DAKOTA | 0.059 |
| TENNESSEE | 0.048 |
| TEXAS | 0.046 |
| UTAH | 0.047 |
| VERMONT | 0.052 |
| VIRGINIA | 0.055 |
| WASHINGTON | 0.063 |
| WEST VIRGINIA | 0.045 |
| WISCONSIN | 0.051 |
| WYOMING | 0.065 |

## Appendix A—Regulatory Impact Analysis

### I. Introduction

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless we certify that a final rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all hospitals to be small entities. We estimate the total impact of these changes for FY 2002 payments compared to FY 2001 payments to be approximately a $1.9 billion increase. As such, this final rule is a major rule as defined in 5 U.S.C. 804(2). Therefore, we have prepared an impact analysis for this final rule.

Also, section 1102(b) of the Act requires us to prepare a regulatory impact analysis for any final rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 100 beds that is located outside of a Metropolitan Statistical Area (MSA) or New England County Metropolitan Area (NECMA). Section 601(g) of the Social Security Amendments of 1983 (Public Law 98–21) designated hospitals in certain New England counties as belonging to the adjacent NECMA. Thus, for purposes of the hospital inpatient prospective payment systems, we classify these hospitals as urban hospitals.

It is clear that the changes being made in this document would affect both a substantial number of small rural hospitals as well as other classes of hospitals, and the effects on some may be significant. Therefore, the discussion below, in combination with the rest of this final rule, constitutes a combined regulatory impact analysis and regulatory flexibility analysis.

We have reviewed this final rule under the threshold criteria of Executive Order 13132, Federalism, and have determined that the final rule will not have any negative impact on the rights, roles, and responsibilities of State, local, or tribal governments.

Section 202 of the Unfunded Mandate Reform Act of 1995 (Public Law 104–4) also requires that agencies assess anticipated costs and benefits before issuing any final rule that has been preceded by a final rule that may result in an expenditure in any one year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million. This final rule would not mandate any requirements for State, local, or tribal governments.

In accordance with the provisions of Executive Order 12866, this final rule was reviewed by the Office of Management and Budget.

### II. Changes in the Final Rule

Since we published the proposed rule, the market basket estimates for hospitals subject to the inpatient prospective payment system and hospitals and units excluded from the system have both risen by 0.2 percentage points. As a result, the updates are 0.2 percentage points higher than the updates reflected in the impact analysis for the proposed rule. With the exception of these changes, we are generally implementing the policy and

statutory provisions discussed in the proposed rule.

**III. Impact Analysis for CMS–1131–F and CMS–1178–F**

As noted previously, this final rule contains provisions implemented in two interim final rules with comment periods. The first, published August 1, 2000 (65 FR 47026), implemented, or conformed the regulations to, certain statutory provisions relating to Medicare payments to hospitals for inpatient services that were contained in Public Law 106–113. The second, published June 13, 2001 (66 FR 32172), implemented, or conformed the regulations to, certain statutory provisions relating to Medicare payments to hospitals for inpatient services that were contained in Public Law 106–554.

As described in the preamble to this final rule, with the exception of minor changes to the process for receiving, reviewing, and approving new Medicare-dependent small rural hospitals (MDHs), we are not changing the policies described in those interim final rules with comment period. Therefore, the reader should refer to the impact analyses contained in those interim final rules for a discussion of the impacts of these changes. For the impact analysis in the August 1, 2000 interim final rule, the reader should refer to page 47043. For the impact analysis in the June 13, 2001 interim final rule, the reader should refer to page 32184.

**IV. Limitations of Our Analysis**

As has been the case in our previously published regulatory impact analyses, the following quantitative analysis presents the projected effects of our proposed policy changes, including statutory changes effective for FY 2002, on various hospital groups. We estimate the effects of individual policy changes by estimating payments per case while holding all other payment policies constant. We use the best data available, but we do not attempt to predict behavioral responses to our policy changes, and we do not make adjustments for future changes in such variables as admissions, lengths of stay, or case-mix. We received two comments on the impact analysis for our May 4, 2001 proposed rule.

*Comment:* One commenter, who was unable to reconcile the standardized amounts for FY 2002 proposed in the May 4, 2001 **Federal Register** with the standardized amounts published for FY 2001 (65 FR 47126 and 66 FR 32176), expressed concern with the level of detail provided by the impact analysis and requested a breakdown of the changes reflected in Column 8 of Table 1. The commenter also requested that we release the complete data so that hospitals could evaluate all the proposed FY 2002 policy changes on their own.

*Response:* As we stated in the proposed rule, column 8 compares our estimate of payments per case, incorporating all changes reflected in this final rule for FY 2002 (including statutory changes), to our estimate of payments per case in FY 2001. It includes the effects of the 2.75 percent update to the standardized amounts and the hospital-specific rates for MDHs and SCHs. It also reflects the 1.1 percentage point difference between the projected percentage of outlier payments in FY 2001 (5.1 percent of total DRG payments) and the current estimate of the percentage of actual outlier payments in FY 2001 (6.2 percent), as described in the introduction to this Appendix and the Addendum to this final rule. Additionally, there are differences resulting from the increased number of hospitals receiving DSH payments under Section 211 of Public Law 106–554 and from the increase in SCH rebasing to a 1996 blended rate. There are also interactive effects among the various factors comprising the payment system that we are not able to isolate. For these reasons, the values in column 7 may not equal the sum of the changes in columns 5 and 6, plus the other impacts that we are able to identify. Since we explain the update for FY 2002 in section II. of the Addendum of this final rule, and since the impact of those changes are the same for all types of hospitals, we do not believe it is necessary to isolate that change in a separate impact column. Also, we would like to note that all of the data used by us in the impact analysis are available to the public. Our impact file is posted on our website following the publication of each proposed and final rule. For information on obtaining the MedPAR file, the Provider-Specific File, and the cost report files on which all of our analysis is based, we refer the reader to section VIII. of this final rule.

*Comment:* One commenter noted that, in the proposed rule, the budget neutrality factor in footnote 6 of Table 1 was printed as 0.992394 while the same factor was printed as 0.992493 on page 22872 and asked which factor was correct.

*Response:* Footnote 6 to Table 1 in the proposed rule contained a typographical error. The budget neutrality factor used in the proposed rule was 0.992493 and was printed correctly on page 22872 of the proposed rule.

**V. Hospitals Included in and Excluded From the Prospective Payment System**

The prospective payment systems for hospital inpatient operating and capital-related costs encompass nearly all general, short-term, acute care hospitals that participate in the Medicare program. There were 48 Indian Health Service hospitals in our database, which we excluded from the analysis due to the special characteristics of the prospective payment method for these hospitals. We also exclude critical access hospitals (CAHs) from our analysis, due to the special characteristics of these hospitals. Among other short-term, acute care hospitals, only the 68 such hospitals in Maryland remain excluded from the prospective payment system under the waiver at section 1814(b)(3) of the Act. Thus, as of July 2001, we have included 4,795 hospitals in our analysis. This represents about 80 percent of all Medicare-participating hospitals. The majority of this impact analysis focuses on this set of hospitals.

The remaining 20 percent are specialty hospitals that are excluded from the prospective payment system and continue to be paid on the basis of their reasonable costs (subject to a rate-of-increase ceiling on their inpatient operating costs per discharge). These hospitals include psychiatric, rehabilitation, long-term care, children's, and cancer hospitals. The impacts of our final policy changes on these hospitals are discussed below.

**VI. Impact on Excluded Hospitals and Units**

As of July 2001, there were 1,064 specialty hospitals excluded from the prospective payment system and instead paid on a reasonable cost basis subject to the rate-of-increase ceiling under § 413.40. Broken down by specialty, there were 507 psychiatric, 210 rehabilitation, 260 long-term care, 77 children's, and 10 cancer hospitals. In addition, there were 1,446 psychiatric units and 926 rehabilitation units in hospitals otherwise subject to the prospective payment system. These excluded units are also paid in accordance with § 413.40. Under § 413.40(a)(2)(i)(A), the rate-of-increase ceiling is not applicable to the 68 specialty hospitals and units in Maryland that are paid in accordance with the waiver at section 1814(b)(3) of the Act.

As required by section 1886(b)(3)(B) of the Act, the update factor applicable to the rate-of-increase limit for excluded

hospitals and units for FY 2002 would be between 0.8 and 3.3 percent, or 0 percent, depending on the hospital's or unit's costs in relation to its limit for the most recent cost reporting period for which information is available.

The impact on excluded hospitals and units of the update in the rate-of-increase limit depends on the cumulative cost increases experienced by each excluded hospital or unit since its applicable base period. For excluded hospitals and units that have maintained their cost increases at a level below the percentage increases in the rate-of-increase limits since their base period, the major effect will be on the level of incentive payments these hospitals and units receive. Conversely, for excluded hospitals and units with per-case cost increases above the cumulative update in their rate-of-increase limits, the major effect will be the amount of excess costs that would not be reimbursed.

We note that, under § 413.40(d)(3), an excluded hospital or unit whose costs exceed 110 percent of its rate-of-increase limit receives its rate-of-increase limit plus 50 percent of the difference between its reasonable costs and 110 percent of the limit, not to exceed 110 percent of its limit. In addition, under the various provisions set forth in § 413.40, certain excluded hospitals and units can obtain payment adjustments for justifiable increases in operating costs that exceed the limit. At the same time, however, by generally limiting payment increases, we continue to provide an incentive for excluded hospitals and units to restrain the growth in their spending for patient services.

## VII. Graduate Medical Education Impact

### *A. National Average Per Resident Amount (PRA)*

As discussed in detail in section IV.H.2. of this proposed rule, we proposed to implement section 511 of Public Law 106–554, which increased the floor of the locality-adjusted national average (PRA for the purposes of computing direct GME payments for cost reporting periods beginning during FY 2002. The national average PRA payment methodology, as provided in section 311 of Public Law 106–113, establishes a ''floor'' and ''ceiling'' based on a locality-adjusted, updated national average PRA for cost reporting periods beginning on or after October 1, 2000 and before October 1, 2005. Section 511 of Public Law 106–554 increased the floor from 70 percent to equal 85 percent of a locality-adjusted national average PRA for FY 2002.

For this final rule, we have calculated an estimated impact of this policy on teaching hospitals' PRAs for FY 2002, making assumptions about update factors and geographic adjustment factors (GAF) for each hospital. Generally, using FY 1997 data, we calculated a floor based on 70 percent of the national average PRA and a floor based on 85 percent of the national average PRA. We then determined the amount of direct GME payments that would have been paid had the floor remained at 70 percent of the national average PRA. Next, we determined the amount of direct GME payments that would be paid with the floor increased to equal 85 percent of the national average PRA. We subtracted the difference between the two and inflated the difference to FY 2002 to determine the impact of this provision.

The figures we used in this impact, except for the FY 1997 weighted PRA of $68,464, are estimations and are for demonstrative purposes only. Hospitals must use the methodology stated in section IV.H. of this final rule to revise (if appropriate) their individual PRAs.

In calculating this impact, we used Medicare cost report data for all cost reports ending in FY 1997. We excluded hospitals that file manual cost reports because we did not have access to their Medicare utilization data. We also excluded all teaching hospitals in Maryland, because these hospitals are paid on a Medicare waiver outside of the prospective payment system, and those hospitals' PRAs do not determine their level of direct GME payments. For hospitals that had two cost reporting periods ending in FY 1997, we used the later of the two periods. A total of 1,231 teaching hospitals were included in the analysis.

Using the FY 1997 weighted average PRA of $68,464, we determined an 85 percent floor of $58,194 for FY 1997. We then determined that, for cost reporting periods ending in FY 1997, approximately 562 hospitals had PRAs that were below $58,194 (336 hospitals of these hospitals had PRAs that were below the 70-percent floor, and 226 hospitals had PRAs that were above the 70-percent floor but below the 85-percent floor). The estimated total cost to the Medicare program in FY 2002 of replacing the PRAs of the 562 hospitals with the 85-percent floor is $105.3 million.

### *B. Closed Training Programs or Hospitals That Close Their Training Programs*

As discussed in IV.H.5, of the preamble of this final rule, we are allowing a hospital to receive a temporary adjustment to its FTE cap to reflect residents added because of the closure of another hospital's GME program if the hospital that closed its program agrees to temporarily reduce its FTE cap. We have calculated an estimated impact on the Medicare program for FY 2002 as a result of this policy. We used the best available cost report data from the FY 1997 HCRIS in our analysis.

We estimate that approximately 5 to 10 programs, each with an average of 25 residents, close each year without advance warning, displacing the residents before they complete their training. Therefore, the number of residents displaced each year could be between 125 and 250. We estimated the impact of this change based on direct GME and IME payment amounts in FY 1997 to determine a total GME amount and updated the total with the CPI–U for FY 2002. At most, the estimated impact for this provision for FY 2002 is moving payments of between $10 and $20 million among different hospitals. This would result from redirecting these payments from the hospital that closed its program to the hospital(s) that takes on the residents.

## VIII. Quantitative Impact Analysis of the Final Policy Changes Under the Prospective Payment System for Operating Costs

### *A. Basis and Methodology of Estimates*

In this final rule, we are announcing policy changes and payment rate updates for the prospective payment systems for operating and capital-related costs. We have prepared separate impact analyses of the final changes to each system. This section deals with changes to the operating prospective payment system.

The data used in developing the quantitative analyses presented below are taken from the March 2001 update of the FY 2000 MedPAR file and the most current Provider Specific File that is used for payment purposes. Although the analyses of the changes to the operating prospective payment system do not incorporate cost data, the most recently available hospital cost report data were used to categorize hospitals. Our analysis has several qualifications. First, we do not make adjustments for behavioral changes that hospitals may adopt in response to these final policy changes. Second, due to the

interdependent nature of the prospective payment system, it is very difficult to precisely quantify the impact associated with each final change. Third, we draw upon various sources for the data used to categorize hospitals in the tables. In some cases, particularly the number of beds, there is a fair degree of variation in the data from different sources. We have attempted to construct these variables with the best available sources overall. For individual hospitals, however, some miscategorizations are possible.

Using cases from the March, 2001 update of the FY 2000 MedPAR file, we simulated payments under the operating prospective payment system given various combinations of payment parameters. Any short-term, acute care hospitals not paid under the general prospective payment systems (Indian Health Service hospitals and hospitals in Maryland) are excluded from the simulations. Payments under the capital prospective payment system, or payments for costs other than inpatient operating costs, are not analyzed here. Estimated payment impacts of FY 2002 policy changes to the capital prospective payment system are discussed in section IX. of this Appendix.

The changes discussed separately below are the following:

- The effects of the annual reclassification of diagnoses and procedures and the recalibration of the diagnosis-related group (DRG) relative weights required by section 1886(d)(4)(C) of the Act.
- The effects of changes in hospitals' wage index values reflecting wage data from hospitals' cost reporting periods beginning during FY 1998, compared to the FY 1997 wage data.
- The effects of our final policy to increase the accuracy of the wage index calculation by changing the overhead allocation method used so that the salaries and hours of lower-wage, overhead employees and the overhead wage-related costs associated with the excluded areas of the hospital are more accurately removed when calculating the overhead costs attributable to wages.
- The effects of our final policy to include the contract labor costs of laboratories and pharmacies from Worksheet S–3 Part II Lines 9.01 and 9.02 in the wage index calculation.
- The combined effects of our changes to the wage index data and calculations and the changes in the DRG recalibration.
- The effects of geographic reclassifications by the Medicare Geographic Classification Review Board (MGCRB) that will be effective in FY 2002.
- The effects of our new policy to hold-harmless other hospitals in an urban area where certain hospitals are reclassified elsewhere by including the wage data of reclassified hospitals in their geographic area as well as the area to which they are reclassified.
- The total change in payments based on FY 2002 policies relative to payments based on FY 2001 policies.

To illustrate the impacts of the FY 2002 final changes, our analysis begins with a FY 2002 baseline simulation model using: the FY 2001 DRG GROUPER (version 18.0); the FY 2001 wage index; and no MGCRB reclassifications. Outlier payments are set at 5.1 percent of total DRG plus outlier payments.

Each final and statutory policy change is then added incrementally to this baseline model, finally arriving at an FY 2002 model incorporating all of the changes. This allows us to isolate the effects of each change.

Our final comparison illustrates the percent change in payments per case from FY 2001 to FY 2002. Five factors have significant impacts here. The first is the update to the standardized amounts. In accordance with section 1886(d)(3)(A)(iv) of the Act, as amended by section 301 of Public Law 106–554, we updated the large urban and the other areas average standardized amounts for FY 2002 using the most recently forecasted hospital market basket increase for FY 2002 of 3.3 percent minus 0.55 percentage points (for an update of 2.75 percent). Under section 1886(b)(3) of the Act, the updates to the hospital-specific amounts for sole community hospitals (SCHs) and for MDHs are equal to the market basket increase of 3.3 percent minus 0.55 percentage points (for an update of 2.75 percent).

A second significant factor that impacts changes in hospitals' payments per case from FY 2001 to FY 2002 is the change in MGCRB status from one year to the next. That is, hospitals reclassified in FY 2001 that are no longer reclassified in FY 2002 may have a negative payment impact going from FY 2001 to FY 2002; conversely, hospitals not reclassified in FY 2001 that are reclassified in FY 2002 may have a positive impact. In some cases, these impacts can be quite substantial, so if a relatively small number of hospitals in a particular category lose their reclassification status, the percentage change in payments for the category may be below the national mean. This effect may be alleviated somewhat by section 304(a) of Public Law 106–554, which provided that reclassifications for purposes of the wage index are for a 3 year period.

A third significant factor is that we currently estimate that actual outlier payments during FY 2001 will be 6.2 percent of actual total DRG payments. When the FY 2001 final rule was published, we projected FY 2001 outlier payments would be 5.1 percent of total DRG plus outlier payments; the standardized amounts were offset correspondingly. The effects of the higher than expected outlier payments during FY 2001 (as discussed in the Addendum to this final rule) are reflected in the analyses below comparing our current estimates of FY 2001 payments per case to estimated FY 2002 payments per case.

Fourth, section 213 of Public Law 106–554 provided that all SCHs may receive payment on the basis of their costs per case during their cost reporting period that began during 1996. For FY 2002, eligible SCHs that are rebased receive a hospital-specific rate comprised of the greater of 50-percent of the higher of their FY 1982 or FY 1987 hospital-specific rate or 50-percent of the federal rate, and 50-percent of their FY 1996 hospital-specific rate.

Fifth, sections 302 and 303 of Public Law 106–554 affect payments for indirect medical education (IME) and disproportionate share hospitals (DSH), respectively. These sections increased IME and DSH payments during FY 2001 (effective with discharges on or after April 1, 2001). For FY 2002, section 302 established IME payments at the same level as FY 2001 (6.5 percent), and section 303 established DSH payments at the adjustment the hospital would otherwise receive minus 3 percent.

Table I demonstrates the results of our analysis. The table categorizes hospitals by various geographic and special payment consideration groups to illustrate the varying impacts on different types of hospitals. The top row of the table shows the overall impact on the 4,795 hospitals included in the analysis. This number is 93 fewer hospitals than were included in the impact analysis in the FY 2001 final rule (65 FR 47191).

The next four rows of Table I contain hospitals categorized according to their geographic location (all urban (which is further divided into large urban and other urban) and rural). There are 2,704 hospitals located in urban areas (MSAs or NECMAs) included in our analysis. Among these, there are 1,561 hospitals located in large urban areas (populations over 1 million), and 1,143 hospitals in other urban areas (populations of 1 million or fewer). In

addition, there are 2,091 hospitals in rural areas. The next two groupings are by bed-size categories, shown separately for urban and rural hospitals. The final groupings by geographic location are by census divisions, also shown separately for urban and rural hospitals.

The second part of Table I shows hospital groups based on hospitals' FY 2002 payment classifications, including any reclassifications under section 1886(d)(10) of the Act. For example, the rows labeled urban, large urban, other urban, and rural show that the number of hospitals paid based on these categorizations (after consideration of geographic reclassifications) are 2,746, 1,632, 1,114, and 2,049, respectively.

The next three groupings examine the impacts of the final changes on hospitals grouped by whether or not they have residency programs (teaching hospitals that receive an IME adjustment) or receive DSH payments, or some combination of these two adjustments. There are 3,668 non-teaching hospitals in our analysis, 890 teaching hospitals with fewer than 100 residents, and 237 teaching hospitals with 100 or more residents.

In the DSH categories, hospitals are grouped according to their DSH payment status, and whether they are considered urban or rural after MGCRB reclassifications. Hospitals in the rural DSH categories, therefore, represent hospitals that were not reclassified for purposes of the standardized amount or for purposes of the DSH adjustment. (They may, however, have been reclassified for purposes of the wage index.) We note that section 211 of Public Law 106–554 reduced the qualifying DSH threshold to 15 percent for all hospitals (this threshold previously applied to urban hospitals with 100 or more beds and rural hospitals with 500 or more beds). Consequently, many more hospitals qualify for DSH. In the FY 2001 final rule, there were 3,070 hospitals that did not receive a DSH adjustment (65 FR 47192). In Table I, the number of hospitals that did not receive a DSH adjustment declines to 1,879. The number of urban hospitals with fewer than 100 beds receiving DSH increases from 72 prior to section 211 to 316 after its implementation. Among rural hospitals with fewer than 100 beds, 103 received DSH prior to section 211; for FY 2002 that number increases to 454.

The next category groups hospitals considered urban after geographic reclassification, in terms of whether they receive the IME adjustment, the DSH adjustment, both, or neither.

The next five rows examine the impacts of the final changes on rural hospitals by special payment groups (SCHs, rural referral centers (RRCs), and MDHs), as well as rural hospitals not receiving a special payment designation. The RRCs (165), SCHs (680), MDHs (329), and SCH and RRCs (70) shown here were not reclassified for purposes of the standardized amount. There are 15 RRCs, 1 MDH, 4 SCHs, and 1 SCH and RRC that will be reclassified as urban for the standardized amount in FY 2002 and, therefore, are not included in these rows.

The next two groupings are based on type of ownership and the hospital's Medicare utilization expressed as a percent of total patient days. These data are taken primarily from the FY 1999 Medicare cost report files, if available (otherwise FY 1998 data are used). Data needed to determine ownership status or Medicare utilization percentages were unavailable for 52 and 78 hospitals, respectively. For the most part, these appear to be new hospitals, without cost reports on file for FY 1999.

The next series of groupings concern the geographic reclassification status of hospitals. The first grouping displays all hospitals that were reclassified by the MGCRB for FY 2002. The next two groupings separate the hospitals in the first group by urban and rural status. The final row in Table I contains hospitals located in rural counties but deemed to be urban under section 1886(d)(8)(B) of the Act.

TABLE I.—IMPACT ANALYSIS OF CHANGES FOR FY 2002 OPERATING PROSPECTIVE PAYMENT SYSTEM

[Percent changes in payments per case]

| | Num. of hosps.[1] | DRG re-calib.[2] | New wage data[3] | New overhead alloc.[4] | Include contract labor[5] | DRG & WI changes[6] | MCGRB reclassi-fication[7] | Reclassi-fication hold-harmless policy[8] | All FY 2002 changes[9] |
|---|---|---|---|---|---|---|---|---|---|
| | (0) | (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) |
| By Geographic Location | | | | | | | | | |
| All hospitals | 4,795 | 0.3 | 0.2 | −0.1 | −0.1 | 0.0 | −0.2 | 0.2 | 2.1 |
| Urban hospitals | 2,704 | 0.3 | 0.2 | −0.1 | −0.1 | 0.0 | −0.7 | 0.2 | 1.9 |
| Large urban areas(populations over 1 million) | 1,561 | 0.4 | 0.0 | −0.1 | −0.1 | −0.1 | −0.8 | 0.3 | 1.8 |
| Other urban areas (populations of 1 million or fewer) | 1,143 | 0.2 | 0.5 | −0.2 | −0.1 | 0.2 | −0.5 | 0.1 | 2.0 |
| Rural hospitals | 2,091 | 0.0 | 0.0 | 0.2 | 0.2 | −0.2 | 2.6 | 0.0 | 3.4 |
| Bed Size (Urban): | | | | | | | | | |
| 0–99 beds | 695 | −0.1 | 0.1 | 0.1 | 0.1 | 0.0 | −0.8 | 0.2 | 2.6 |
| 100–199 beds | 948 | 0.3 | −0.1 | 0.2 | 0.2 | 0.0 | −0.7 | 0.3 | 2.1 |
| 200–299 beds | 529 | 0.3 | 0.2 | 0.0 | 0.0 | 0.1 | −0.7 | 0.3 | 2.0 |
| 300–499 beds | 383 | 0.3 | 0.4 | −0.3 | −0.2 | 0.0 | −0.7 | 0.2 | 1.8 |
| 500 or more beds | 149 | 0.5 | 0.4 | −0.4 | −0.4 | 0.0 | −0.6 | 0.1 | 1.6 |
| Bed Size (Rural): | | | | | | | | | |
| 0–49 beds | 1,226 | −0.2 | 0.1 | 0.2 | 0.1 | −0.3 | 0.3 | 0.0 | 3.4 |
| 50–99 beds | 520 | −0.1 | 0.0 | 0.2 | 0.1 | −0.3 | 1.0 | 0.0 | 3.5 |
| 100–149 beds | 203 | 0.0 | 0.0 | 0.3 | 0.2 | −0.1 | 3.3 | 0.1 | 3.4 |
| 150–199 beds | 75 | 0.1 | −0.2 | 0.2 | 0.2 | −0.2 | 5.2 | 0.0 | 3.6 |
| 200 or more beds | 67 | 0.1 | −0.1 | 0.1 | 0.1 | −0.2 | 4.8 | 0.0 | 3.3 |
| Urban by Region: | | | | | | | | | |
| New England | 138 | 0.3 | 1.6 | −0.3 | −0.2 | 1.2 | −0.3 | 0.2 | 3.0 |
| Middle Atlantic | 416 | 0.4 | −0.5 | 0.0 | 0.1 | −0.4 | −0.7 | 0.6 | 1.3 |
| South Atlantic | 393 | 0.4 | 0.5 | −0.1 | −0.1 | 0.4 | −0.8 | 0.3 | 2.4 |
| East North Central | 459 | 0.2 | 0.1 | −0.2 | −0.2 | −0.3 | −0.5 | 0.1 | 1.7 |
| East South Central | 160 | 0.3 | 1.0 | −0.1 | −0.1 | 0.8 | −0.7 | 0.0 | 3.0 |
| West North Central | 187 | 0.2 | 0.4 | −0.3 | −0.3 | −0.1 | −0.7 | 0.0 | 1.7 |
| West South Central | 340 | 0.3 | −0.2 | −0.2 | −0.1 | −0.4 | −0.7 | 0.0 | 1.3 |
| Mountain | 136 | 0.2 | 0.8 | −0.3 | −0.3 | 0.3 | −0.7 | 0.0 | 2.2 |
| Pacific | 429 | 0.5 | 0.0 | 0.1 | 0.1 | 0.1 | −0.8 | 0.3 | 1.9 |

TABLE I.—IMPACT ANALYSIS OF CHANGES FOR FY 2002 OPERATING PROSPECTIVE PAYMENT SYSTEM—Continued

[Percent changes in payments per case]

| | Num. of hosps.[1] | DRG re-calib.[2] | New wage data[3] | New overhead alloc.[4] | Include contract labor[5] | DRG & WI changes[6] | MCGRB reclassi-fication[7] | Reclassi-fication hold-harmless policy[8] | All FY 2002 changes[9] |
|---|---|---|---|---|---|---|---|---|---|
| | (0) | (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) |
| Puerto Rico | 46 | 0.1 | 2.1 | −0.8 | −0.9 | 1.1 | −0.8 | 0.2 | 3.3 |
| Rural by Region: | | | | | | | | | |
| New England | 50 | 0.0 | 0.0 | 0.1 | 0.1 | −0.3 | 2.9 | 0.0 | 3.7 |
| Middle Atlantic | 75 | 0.1 | 0.1 | 0.1 | 0.1 | −0.1 | 2.3 | 0.0 | 3.2 |
| South Atlantic | 269 | 0.1 | −0.1 | 0.2 | 0.2 | −0.2 | 2.9 | 0.0 | 3.6 |
| East North Central | 276 | −0.2 | 0.0 | 0.1 | 0.2 | −0.4 | 2.2 | 0.0 | 2.9 |
| East South Central | 263 | 0.0 | −0.1 | 0.2 | 0.2 | −0.2 | 3.2 | 0.0 | 3.7 |
| West North Central | 481 | −0.3 | 0.3 | 0.2 | 0.1 | −0.1 | 1.8 | 0.0 | 2.6 |
| West South Central | 333 | 0.0 | 0.3 | 0.2 | 0.2 | 0.1 | 3.6 | 0.0 | 4.8 |
| Mountain | 195 | 0.0 | −0.1 | 0.2 | 0.1 | −0.3 | 1.7 | 0.0 | 3.0 |
| Pacific | 144 | 0.1 | −0.9 | 0.2 | 0.2 | −0.9 | 2.3 | 0.0 | 2.8 |
| Puerto Rico | 5 | −0.3 | 6.1 | 0.2 | 0.1 | 5.6 | −0.7 | 0.2 | 9.9 |
| By Payment Classification: | | | | | | | | | |
| Urban hospitals | 2,746 | 0.3 | 0.2 | −0.1 | −0.1 | 0.0 | −0.6 | 0.2 | 1.9 |
| Large urban hospitals (populations over 1 million) | 1,632 | 0.4 | 0.0 | −0.1 | −0.1 | −0.1 | −0.7 | 0.3 | 1.9 |
| Other urban hospitals (populations of 1 million or fewer) | 1,114 | 0.2 | 0.5 | −0.2 | −0.1 | 0.2 | −0.5 | 0.1 | 2.0 |
| Rural hospitals | 2,049 | 0.0 | 0.0 | 0.2 | 0.2 | −0.2 | 2.4 | 0.0 | 3.4 |
| Teaching Status:. | | | | | | | | | |
| Non-teaching | 3,668 | 0.1 | 0.0 | 0.2 | 0.2 | 0.0 | 0.2 | 0.2 | 2.4 |
| Fewer than 100 Residents | 890 | 0.2 | 0.4 | −0.2 | −0.1 | 0.1 | −0.6 | 0.2 | 2.0 |
| 100 or more Residents | 237 | 0.6 | 0.3 | −0.5 | −0.4 | 0.0 | −0.5 | 0.1 | 1.7 |
| Urban DSH: | | | | | | | | | |
| Non DSH | 1,879 | 0.1 | 0.2 | −0.1 | −0.1 | −0.1 | −0.1 | 0.2 | 1.9 |
| 100 or more beds | 1,379 | 0.4 | 0.2 | −0.1 | −0.1 | 0.1 | −0.7 | 0.2 | 1.9 |
| Less than 100 beds | 316 | 0.1 | −0.1 | 0.3 | 0.3 | 0.0 | −0.7 | 0.2 | 4.0 |
| Rural DSH: | | | | | | | | | |
| Sole Community (SCH) | 545 | 0.0 | 0.0 | 0.1 | 0.1 | −0.3 | 0.3 | 0.0 | 3.1 |
| Referral Center (RRC) | 152 | 0.2 | −0.1 | 0.2 | 0.2 | −0.1 | 5.2 | 0.0 | 3.8 |
| Other Rural: | | | | | | | | | |
| 100 or more beds | 70 | 0.0 | 0.1 | 0.3 | 0.3 | 0.1 | 1.5 | 0.1 | 3.7 |
| Less than 100 beds | 454 | −0.1 | −0.1 | 0.2 | 0.2 | −0.4 | 0.6 | 0.0 | 4.5 |
| Urban teaching and DSH: | | | | | | | | | |
| Both teaching and DSH | 758 | 0.5 | 0.3 | −0.3 | −0.2 | 0.1 | −0.7 | 0.2 | 1.9 |
| Teaching and no DSH | 298 | 0.2 | 0.4 | −0.3 | −0.3 | −0.1 | −0.5 | 0.3 | 1.8 |
| No teaching and DSH | 937 | 0.3 | 0.0 | 0.2 | 0.2 | 0.1 | −0.6 | 0.2 | 2.2 |
| No teaching and no DSH | 753 | 0.1 | −0.1 | 0.1 | 0.1 | −0.1 | −0.6 | 0.2 | 1.8 |
| Rural Hospital Types: | | | | | | | | | |
| Non-special status | 805 | −0.2 | 0.0 | 0.3 | 0.2 | −0.2 | 0.9 | 0.0 | 3.8 |
| RRC | 165 | 0.1 | −0.1 | 0.2 | 0.2 | −0.1 | 6.3 | 0.1 | 3.7 |
| SCH | 680 | 0.0 | 0.0 | 0.1 | 0.1 | −0.3 | 0.3 | 0.0 | 2.7 |
| Medicare-dependent hospitals (MDH) | 329 | −0.2 | 0.2 | 0.1 | 0.1 | −0.2 | 0.4 | 0.0 | 3.6 |
| SCH and RRC | 70 | 0.0 | 0.0 | 0.1 | 0.1 | −0.3 | 2.1 | 0.0 | 2.9 |
| Type of Ownership: | | | | | | | | | |
| Voluntary | 2,765 | 0.3 | 0.1 | −0.1 | −0.1 | −0.1 | −0.3 | 0.2 | 2.0 |
| Proprietary | 717 | 0.3 | 0.1 | 0.0 | 0.0 | 0.1 | 0.0 | 0.1 | 2.4 |
| Government | 1,261 | 0.3 | 0.4 | −0.1 | 0.0 | 0.3 | 0.0 | 0.0 | 0.0 |
| Unknown | 52 | −0.4 | 0.6 | 0.1 | 0.1 | −0.1 | −1.8 | 1.0 | 1.6 |
| Medicare Utilization as a Percent of Inpatient Days: | | | | | | | | | |
| 0–25 | 396 | 0.7 | 0.2 | 0.0 | 0.0 | 0.5 | −0.4 | 0.2 | 2.5 |
| 25–50 | 1,886 | 0.4 | 0.2 | −0.2 | −0.2 | 0.0 | −0.6 | 0.2 | 1.9 |
| 50–65 | 1,843 | 0.1 | 0.2 | 0.0 | 0.0 | 0.0 | 0.1 | 0.2 | 2.4 |
| Over 65 | 592 | 0.1 | −0.2 | 0.2 | 0.2 | −0.1 | 0.3 | 0.2 | 2.2 |
| Unknown | 78 | 0.3 | −0.3 | −0.1 | 0.0 | −0.6 | 0.8 | 0.2 | 0.7 |
| Hospitals Reclassified by the Medicare Geographic Classification Review Board: FY 2002 Reclassifications: | | | | | | | | | |
| All Reclassified Hospitals | 628 | 0.2 | 0.2 | 0.0 | 0.0 | 0.0 | 5.0 | 0.1 | 3.3 |
| Standardized Amount Only | 74 | 0.1 | −0.4 | 0.3 | 0.4 | −0.3 | 2.2 | 0.4 | 3.8 |
| Wage Index Only | 391 | 0.2 | 0.0 | 0.0 | 0.0 | −0.1 | 5.5 | 0.1 | 2.8 |
| Both | 58 | 0.2 | 0.3 | 0.1 | 0.1 | 0.1 | 5.1 | 0.0 | 0.6 |
| All Nonreclassified Hospitals | 4,246 | 0.3 | 0.2 | −0.1 | 0.1 | 0.0 | 0.8 | 0.2 | 2.1 |
| All Reclassified UrbanHospitals | 117 | 0.4 | 0.7 | −0.3 | −0.3 | 0.2 | 4.2 | 0.1 | 2.6 |
| Standardized Amount Only | 14 | 0.2 | −0.3 | 0.5 | 0.5 | −0.1 | 0.4 | 0.3 | 2.6 |
| Wage Index Only | 83 | 0.4 | 0.7 | −0.5 | −0.4 | 0.2 | 4.5 | 0.1 | 2.4 |
| Both | 20 | 0.2 | 0.7 | 0.2 | 0.3 | 0.8 | 4.7 | 0.5 | 3.5 |
| Urban Nonreclassified Hospitals | 2,549 | 0.3 | 0.2 | −0.1 | −0.1 | 0.0 | −1.0 | 0.2 | 1.8 |
| Reclassified Rural Hospitals | 511 | 0.1 | 0.0 | 0.2 | 0.2 | −0.2 | 5.5 | 0.0 | 3.7 |
| Standardized Amount Only | 16 | 0.0 | −0.1 | 0.2 | 0.2 | −0.3 | 3.8 | 0.0 | 2.3 |
| Wage Index Only | 472 | 0.1 | 0.0 | 0.2 | 0.2 | −0.2 | 5.3 | 0.0 | 3.7 |
| Both | 23 | 0.0 | 0.2 | 0.1 | 0.1 | −0.1 | 9.3 | 0.0 | 4.0 |
| Rural Nonreclassified Hospitals | 1,577 | −0.1 | 0.0 | 0.2 | 0.1 | −0.3 | −0.6 | 0.0 | 3.0 |

TABLE I.—IMPACT ANALYSIS OF CHANGES FOR FY 2002 OPERATING PROSPECTIVE PAYMENT SYSTEM—Continued
[Percent changes in payments per case]

| | Num. of hosps. [1] | DRG re-calib.[2] | New wage data [3] | New overhead alloc.[4] | Include contract labor [5] | DRG & WI changes [6] | MCGRB reclassi-fication [7] | Reclassi-fication hold-harmless policy [8] | All FY 2002 changes [9] |
|---|---|---|---|---|---|---|---|---|---|
| | (0) | (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) |
| Other Reclassified Hospitals (Section 1886(D)(8)(B)) .. | 41 | 0.1 | 0.6 | 0.1 | 0.1 | 0.4 | 0.8 | −0.7 | 4.2 |

[1] Because data necessary to classify some hospitals by category were missing, the total number of hospitals in each category may not equal the national total. Discharge data are from FY 2000, and hospital cost report data are from reporting periods beginning in FY 1999 and FY 1998.

[2] This column displays the payment impact of the recalibration of the DRG weights based on FY 2000 MedPAR data and the DRG reclassification changes, in accordance with section 1886(d)(4)(C) of the Act.

[3] This column shows the payment effects of updating the data used to calculate the wage index with data from the FY 1998 cost reports.

[4] This column displays the impact of removing the salaries and hours of lower-wage, overhead employees and the overhead wage-related costs associated with the excluded areas of the hospital from the wage index calculation.

[5] This column displays the impact of including contract pharmacy and contract laboratory costs and hours in the wage index calculation.

[6] This column displays the combined impact of the reclassification and recalibration of the DRGs, the updated and revised wage data used to calculate the wage index, the revised overhead allocation, the laboratory and pharmacy contract labor costs, and the budget neutrality adjustment factor for these two changes, in accordance with sections 1886(d)(4)(C)(iii) and 1886(d)(3)(E) of the Act. Thus, it represents the combined impacts shown in columns 1, 2, 3, and 4, and the FY 2002 budget neutrality factor of .995821.

[7] Shown here are the effects of geographic reclassifications by the Medicare Geographic Classification Review Board (MGCRB). The effects demonstrate the FY 2002 payment impact of going from no reclassifications to the reclassifications scheduled to be in effect for FY 2002. Reclassification for prior years has no bearing on the payment impacts shown here.

[8] Shown here are the effects of our policy to hold-harmless other hospitals in an urban area where certain hospitals are reclassified elsewhere by including the wage data of reclassified hospitals in their geographic area as well as the area to which they are reclassified.

[9] This column shows changes in payments from FY 2001 to FY 2002. It incorporates all of the changes displayed in columns 5, 6, and 7 (the changes displayed in columns 1, 2, 3, and 4 are included in column 5). It also displays the impact of the FY 2002 update, changes in hospitals' reclassification status in FY 2002 compared to FY 2001, and the difference in outlier payments from FY 2001 to FY 2002. It also reflects section 213 of Public law 106–554, which permitted all SCHs to rebase for a 1996 hospital-specific rate. The sum of these columns may be different from the percentage changes shown here due to rounding and interactive effects.

*B. Impact of the Final Changes to the DRG Reclassifications and Recalibration of Relative Weights (Column 1)*

In column 1 of Table I, we present the combined effects of the DRG reclassifications and recalibration, as discussed in section II. of the preamble to this final rule. Section 1886(d)(4)(C)(i) of the Act requires us to annually make appropriate classification changes and to recalibrate the DRG weights in order to reflect changes in treatment patterns, technology, and any other factors that may change the relative use of hospital resources.

We compared aggregate payments using the FY 2001 DRG relative weights (GROUPER version 18) to aggregate payments using the final FY 2002 DRG relative weights (GROUPER version 19). Overall payments increase 0.3 percent due to the DRG reclassification and recalibration. We note that, consistent with section 1886(d)(4)(C)(iii) of the Act, we have applied a budget neutrality factor to ensure that the overall payment impact of the DRG (and wage index) changes is budget neutral. This budget neutrality factor of 0.995821 is applied to payments in Column 5.

We estimate that the DRG changes effective with this final rule would result in higher payments to urban hospitals (0.3 percent) and would have a 0 percent impact on payments to rural hospitals. The changes also would result in higher payments to larger hospitals than to smaller hospitals. This impact is consistent for both urban and rural bed size groups.

This distributional impact likely results from the final changes to major diagnostic category (MDC) 5 ''Diseases and Disorders of the Circulatory System.'' As described in section II. of the preamble of this final rule, we are removing cardiac defibrillator cases from DRGs 104 and 105, and creating two new DRGs for these cases. In addition, we are revising the basis of the DRG assignment for cases involving percutaneous transluminal coronary angioplasty based on whether the patient experienced an acute myocardial infarction. Because MDC 5 is a high volume category, refining the categorizations of these cases has a noticeable overall payment impact.

*C. Impact of Updating the Wage Data and the Final Changes to the Wage Index Calculation (Columns 2, 3 & 4)*

Section 1886(d)(3)(E) of the Act requires that, beginning October 1, 1993, we annually update the wage data used to calculate the wage index. In accordance with this requirement, the final wage index for FY 2002 is based on data submitted for hospital cost reporting periods beginning on or after October 1, 1997 and before October 1, 1998. As with column 1, the impact of the new data on hospital payments is isolated in column 2 by holding the other payment parameters constant in the two simulations. That is, column 2 shows the percentage changes in payments when going from a model using the FY 2001 wage index (based on FY 1997 wage data before geographic reclassifications to a model using the FY 2002 prereclassification wage index based on FY 1998 wage data).

The wage data collected on the FY 1998 cost reports are similar to the data used in the calculation of the FY 2001 wage index. For a thorough discussion of the data used to calculate the wage index, see section III.B. of the preamble of this final rule. The July 30, 1999 final rule (64 FR 41505) indicated that we would phase-out costs related to GME and certified registered nurse anesthestists (CRNA) from the calculation of the wage index over a 5-year period, beginning in FY 2000. The FY 2001 wage index was based on a blend of 60 percent of an average hourly wage including these costs, and 40 percent of an average hourly wage excluding these costs. For FY 2002, the wage index is based on a blend of 40 percent of an average hourly wage including these costs, and 60 percent of an average hourly wage excluding these costs. This change is reflected in column 2.

The results indicate that the new wage data are estimated to provide a 0.2 percent increase for hospital payments overall (prior to applying the budget neutrality factor, see column 5). In some cases, the results shown in this final rule may be very different from the impacts shown in the proposed rule. This is due to the large number of data revisions submitted by hospitals after the proposed wage index was calculated. Approximately 30 percent of hospitals submitted revisions in the interim.

Rural hospitals are generally estimated to experience a negligible

impact from the new wage data, although rural hospitals in Puerto Rico experience a 6.1 percent increase, likely due to the 13 percent increase in the value of five providers' FY 2002 wage index compared to the wage index for those same providers for FY 2001. Additionally, rural hospitals in West North Central and West South Central experience estimated wage index-driven increases of more than 0.3 percent. Meanwhile, hospitals in the Pacific census division experience a 0.9 percent decrease.

Urban hospitals as a group are estimated to benefit positively from the updated wage data. The other urban hospitals appear to experience a 0.5 percent increase and estimated payments to urban hospitals overall showed an increase of 0.2 percent. Among urban census divisions, Puerto Rico experiences a 2.1 percent increase, the New England division experiences a 1.6 percent increase, East South Central experiences a 1.0 percent increase, and Middle Atlantic a 0.5 percent decrease.

Columns 3 and 4, respectively, show that the final change to the overhead calculation and the policy to include contract labor costs in the wage index discussed in detail in section III.C. of the preamble of this final rule both appear to benefit rural hospitals and small hospitals. Urban hospitals as a group are impacted by a 0.1 percent decrease to their payments from each change. Rural hospitals are expected to receive an estimated 0.2 percent increase in payments due to this policy change.

The following chart compares the shifts in wage index values for labor market areas for FY 2001 relative to FY 2002. This chart demonstrates the impact of the final changes for the FY 2002 wage index relative to the FY 2001 wage index. The majority of labor market areas (335) experience less than a 5-percent change. A total of 28 labor market areas experience an increase of more than 5 percent, with 2 having an increase greater than 10 percent. A total of 11 areas experience decreases of more than 5-percent. Of those, 1 declines by more than 10 percent.

| Percentage change in area wage index values | Number of labor market areas | |
|---|---|---|
| | FY 2001 | FY 2002 |
| Increase more than 10 percent | 1 | 2 |
| Increase more than 5 percent and less than 10 percent | 20 | 26 |
| Increase or decrease less than 5 percent | 339 | 335 |
| Decrease more than 5 percent and less than 10 percent | 14 | 10 |
| Decrease more than 10 percent | 1 | 1 |

Among urban hospitals, 129 would experience an increase of between 5 and 10 percent, and 3 experience an increase of more than 10 percent. A total of 18 rural hospitals have increases greater than 5 percent, with 5 increasing greater than 10 percent. On the negative side, 29 urban hospitals have decreases in their wage index values of at least 5 percent but less than 10 percent. Four urban hospitals have decreases in their wage index values greater than 10 percent. There are no rural hospitals with decreases in their wage index values greater than 5 percent. The following chart shows the projected impact for urban and rural hospitals.

| Percentage change in area wage index values | Number of hospitals | |
|---|---|---|
| | Urban | Rural |
| Increase more than 10 percent | 3 | 5 |
| Increase more than 5 percent and less than 10 percent | 129 | 13 |
| Increase or decrease less than 5 percent | 2,531 | 2,166 |
| Decrease more than 5 percent and less than 10 percent | 29 | 0 |
| Decrease more than 10 percent | 4 | 0 |

*D. Combined Impact of DRG and Wage Index Changes— Including Budget Neutrality Adjustment (Column 5)*

The impact of DRG reclassifications and recalibration on aggregate payments is required by section 1886(d)(4)(C)(iii) of the Act to be budget neutral. In addition, section 1886(d)(3)(E) of the Act specifies that any updates or adjustments to the wage index are to be budget neutral. As noted in the Addendum to this final rule, we compared simulated aggregate payments using the FY 2001 DRG relative weights and wage index to simulated aggregate payments using the final FY 2002 DRG relative weights and wage index. Based on this comparison, we computed a wage and recalibration budget neutrality factor of 0.995821. In Table I, the combined overall impacts of the effects of both the DRG reclassifications and recalibration and the updated wage index are shown in column 5. The 0.0 percent impact for all hospitals demonstrates that these changes, in combination with the budget neutrality factor, are budget neutral.

For the most part, the changes in this column are the sum of the changes in columns 1, 2, 3 and 4, minus approximately 0.4 percent attributable to the budget neutrality factor. There may be some variation of plus or minus 0.1 percent due to rounding.

*E. Impact of MGCRB Reclassifications (Columns 6 & 7)*

Our impact analysis to this point has assumed hospitals are paid on the basis of their actual geographic location (with the exception of ongoing policies that provide that certain hospitals receive payments on bases other than where they are geographically located, such as hospitals in rural counties that are deemed urban under section 1886(d)(8)(B) of the Act). The changes in column 5 reflect the per case payment impact of moving from this baseline to a simulation incorporating the MGCRB decisions for FY 2002. As noted below, these decisions may affect hospitals' standardized amount and wage index area assignments. The changes in column 7 reflect the postreclassified wage index values resulting from including the wage data for a reclassified hospital in both the area to

which it is reclassified and the area where the hospital is physically located.

By February 28 of each year, the MGCRB makes reclassification determinations that will be effective for the next fiscal year, which begins on October 1. The MGCRB may approve a hospital's reclassification request for the purpose of using the other area's standardized amount, wage index value, or both.

The final FY 2002 wage index values incorporate all of the MGCRB's reclassification decisions for FY 2002. The wage index values also reflect any decisions made by the CMS Administrator through the appeals and review process for MGCRB decisions.

The overall effect of geographic reclassification is required by section 1886(d)(8)(D) of the Act to be budget neutral. Therefore, we applied an adjustment of 0.990675 to ensure that the effects of reclassification are budget neutral. (See section II.A.4.b. of the Addendum to this final rule.) This results in a larger budget neutrality offset than the FY 2001 factor of 0.993187. This larger offset is accounted for by the extension of wage index reclassifications for 3 years as a result of section 304 of Public Law 106–554, and our final policy to hold-harmless the calculation of urban areas' wage indexes for reclassifications out of the area (see column 7). We have identified 162 hospitals that were reclassified for FY 2001, but not FY 2002, that will nonetheless continue to be reclassified due to section 304 of Public Law 106–554.

As a group, rural hospitals benefit from geographic reclassification. Their payments rise 2.6 percent in column 6. Payments to urban hospitals decline 0.7 percent. Hospitals in other urban areas see a decrease in payments of 0.5 percent, while large urban hospitals lose 0.8 percent. Among urban hospital groups (that is, bed size, census division, and special payment status), payments generally decline.

A positive impact is evident among most of the rural hospital groups. The largest increases are in the West South Central, East South Central, New England and the South Atlantic regions. These regions receive increases of 3.6, 3.2, and 2.9 and 2.9, respectively. The rural census division for the Puerto Rico region appears to receive an estimated decrease in payments of 0.7 percent.

Among all the hospitals that were reclassified for FY 2002, the MGCRB changes are estimated to provide a 5.0 percent increase in payments. Urban hospitals reclassified for FY 2002 are anticipated to receive an increase of 4.2 percent, while rural reclassified hospitals are expected to benefit from the MGCRB changes with a 5.5 percent increase in payments. Overall, among hospitals that were reclassified for purposes of the standardized amount only, a payment increase of 2.2 percent is expected, while those reclassified for purposes of the wage index only show a 5.5 percent increase in payments. Payments to urban hospitals that did not reclassify are expected to decrease by 1.0 percent due to the budget neutrality of MGCRB changes. Those hospitals located in rural counties but deemed to be urban under section 1886(d)(8)(B) of the Act are expected to receive an increase in payments of 0.1 percent.

Column 7 shows the impacts of our final policy to include the wage data for a reclassified hospital in both the area to which it is reclassified and the area where the hospital is physically located. This change affects overall payments by 0.2 percent, partially accounting for the larger budget neutrality factor compared to FY 2001. The payment impacts are generally largest in urban hospital groups, with the largest impact, 0.6 percent, experienced by urban hospitals in the Middle Atlantic census division.

*F. All Changes (Column 8)*

Column 8 compares our estimate of payments per case, incorporating all changes reflected in this final rule for FY 2002 (including statutory changes), to our estimate of payments per case in FY 2001. It includes the effects of the 2.75 percent update to the standardized amounts and the hospital-specific rates for MDHs and SCHs. It also reflects the 1.1 percentage point difference between the projected percentage of outlier payments in FY 2001 (5.1 percent of total DRG payments) and the current estimate of the percentage of actual outlier payments in FY 2001 (6.2 percent), as described in the introduction to this Appendix and the Addendum to this final rule.

We also note that section 211 of Public Law 106–554 changed the criteria for hospitals to qualify for DSH payment status. Since more hospitals are now eligible to receive DSH payments for the full FY 2002, as opposed to for just the second 6 months of FY 2001, DSH payments to providers in FY 2002 would increase and this change is also captured in column 8.

Section 213 of Public Law 106–554 provided that all SCHs may elect to receive payment on the basis of their costs per case during their cost reporting period that began during 1996. For FY 2002, eligible SCHs that rebase receive a hospital-specific rate comprised of 50 percent of the higher of their FY 1982 or FY 1987 hospital-specific rate or their Federal rate, and 50 percent of their 1996 hospital-specific rate. The impact of this provision is modeled in column 8 as well.

There might also be interactive effects among the various factors comprising the payment system that we are not able to isolate. For these reasons, the values in column 8 may not equal the sum of the changes in columns 5, 6, and 7, plus the other impacts that we are able to identify.

Hospitals in urban areas experience a 1.9 percent increase in payments per case compared to FY 2001. The net 0.5 percent negative impact due to reclassification (columns 6 and 7) is offset by a similar negative impact for FY 2001 of 0.4 percent (65 FR 47196). Hospitals in rural areas, meanwhile, experience a 3.4 percent payment increase. This is primarily due to the change in the DSH threshold to 15 percent for all hospitals enacted by section 211 of Public Law 106–554 effective for discharges on or after April 1, 2001, and the positive effect of the reclassification changes (2.6 percent increase).

The impact of lowering the DSH threshold is demonstrated in Column 8, although we would note that the estimated FY 2001 payments do reflect 6 months of payments to hospitals affected by this change. The impacts are seen in the rows displaying urban hospitals with fewer than 100 beds receiving DSH (4.0 percent increase), and all rural DSH categories.

Among urban census divisions, payments increased between 1.3 and 3.3 percent between FY 2001 and FY 2002. The rural census division experiencing the smallest increase in payments was the West North Central region (2.6 percent). The largest increases by rural hospitals is in Puerto Rico, where payments appear to increase by 9.9 percent, and West South Central, where payments appear to increase by 4.8 percent. All 5 of the rural Puerto Rico hospitals experienced an increase of greater than 10 percent in their wage index values (comparison of FY 2001 and FY 2002). Rural New England, East South Central, and South Atlantic regions also benefited with 3.7, 3.7, and 3.6 percent respectively.

Among special categories of rural hospitals, those hospitals receiving payment under the hospital-specific methodology (SCHs, MDHs, and SCH/RRCs) experience payment increases of 2.7 percent, 3.6 percent, and 2.9 percent, respectively. This outcome is primarily related to the fact that hospitals receiving payments under the hospital-specific methodology are not eligible for outlier payments. Therefore,

these hospitals do not experience negative payment impacts from the decline in outlier payments from FY 2001 to FY 2002 (from 6.2 percent of total DRG plus outlier payments to 5.1 percent) as do hospitals paid based on the national standardized amounts.

Among hospitals that were reclassified for FY 2002, hospitals overall are estimated to receive a 3.3 percent increase in payments. Urban hospitals reclassified for FY 2002 are anticipated to receive an increase of 2.6 percent, while rural reclassified hospitals are expected to benefit from reclassification with a 3.7 percent increase in payments. Overall, among hospitals reclassified for purposes of the standardized amount only, a payment increase of 3.8 percent is expected, while those hospitals reclassified for purposes of the wage index only show an expected 2.8 percent increase in payments. Those hospitals located in rural counties but deemed to be urban under section 1886(d)(8)(B) of the Act are expected to receive an increase in payments of 4.2 percent.

TABLE II.—IMPACT ANALYSIS OF CHANGES FOR FY 2002 OPERATING PROSPECTIVE PAYMENT SYSTEM

[Payments per case]

| | Num. of hosp. (1) | Average FY 2001 payment per case[1] (2) | Average FY 2002 payment per case[1] (3) | All FY 2002 changes (4) |
|---|---|---|---|---|
| By Geographic Location | 4,795 | 6,994 | 7,141 | 2.1 |
| All hospitals. | | | | |
| Urban hospitals | 2,704 | 7,559 | 7,703 | 1.9 |
| Large urban areas (populations over 1 million) | ..... | ..... | ..... | ..... |
| Other urban areas (populations of 1 million of fewer) | 1,143 | 6,853 | 6,989 | 2.0 |
| Rural hospitals | 2,091 | 4,808 | 4,972 | 3.4 |
| Bed Size (Urban) | 695 | 5,110 | 5,246 | 2.6 |
| 0–99 beds | ..... | ..... | ..... | ..... |
| 100–199 beds | 948 | 6,313 | 6,444 | 2.1 |
| 200–299 beds | 529 | 7,218 | 7,364 | 2.0 |
| 300–499 beds | 383 | 8,139 | 8,283 | 1.8 |
| 500 or more beds | 149 | 9,875 | 10,035 | 1.6 |
| Bed Size (Rural) | 1,226 | 3,984 | 4,118 | 3.4 |
| 0–49 beds | ..... | ..... | ..... | ..... |
| 50–99 beds | 520 | 4,526 | 4,683 | 3.5 |
| 100–149 beds | 203 | 4,858 | 5,022 | 3.4 |
| 150–199 beds | 75 | 5,336 | 5,529 | 3.6 |
| 200 or more beds | 67 | 6,188 | 6,392 | 3.3 |
| Urban by Region | 138 | 8,014 | 8,254 | 3.0 |
| New England. | | | | |
| Middle Atlantic | 416 | 8,600 | 8,713 | 1.3 |
| South Atlantic | 393 | 7,169 | 7,338 | 2.4 |
| East North Central | 459 | 7,215 | 7,335 | 1.7 |
| East South Central | 160 | 6,776 | 6,976 | 3.0 |
| West North Central | 187 | 7,342 | 7,470 | 1.7 |
| West South Central | 340 | 6,998 | 7,090 | 1.3 |
| Mountain | 136 | 7,308 | 7,467 | 2.2 |
| Pacific | 429 | 8,939 | 9,109 | 1.9 |
| Puerto Rico | 46 | 3,207 | 3,312 | 3.3 |
| Rural by Region | 50 | 5,740 | 5,950 | 3.7 |
| New England | ..... | ..... | ..... | ..... |
| Middle Atlantic | 75 | 5,114 | 5,277 | 3.2 |
| South Atlantic | 269 | 4,950 | 51,128 | 3.6 |
| East North Central | 276 | 4,813 | 4,951 | 2.9 |
| East South Central | 263 | 4,423 | 4,587 | 3.7 |
| West North Central | 481 | 4,714 | 4,839 | 2.6 |
| West South Central | 333 | 4,249 | 4,452 | 4.8 |
| Mountain | 195 | 5,168 | 5,321 | 3.0 |
| Pacific | 144 | 6,090 | 6,263 | 2.8 |
| Puerto Rico | 5 | 2,521 | 2,771 | 9.9 |
| By Payment Classification: Urban hospitals | 2,746 | 7,538 | 7,682 | 1.9 |
| Large urban hospitals (populations over 1 million) | 1,632 | 8,026 | 8,175 | 1.9 |
| Other urban hospitals (populations of 1 million or fewer) | 1,114 | 6,870 | 7,006 | 2.0 |
| Rural hospitals | 2,049 | 4,791 | 4,954 | 3.4 |
| Teaching Status | 3,668 | 5,638 | 5,775 | 2.4 |
| Non-teaching | ..... | ..... | ..... | ..... |
| Fewer than 100 Residents | 890 | 7,327 | 7,473 | 2.0 |
| 100 or more Residents | 237 | 11,280 | 11,473 | 1.7 |
| Urban DSH | 1,879 | 6,356 | 6,479 | 1.9 |
| Non DSH | ..... | ..... | ..... | ..... |
| 100 or more beds | 1,379 | 8,152 | 8,307 | 1.9 |
| Less than 100 beds | 316 | 4,973 | 5,173 | 4.0 |
| Rural DSH | 545 | 4,650 | 4,796 | 3.1 |
| Sole Community (SCH) | ..... | ..... | ..... | ..... |

TABLE II.—IMPACT ANALYSIS OF CHANGES FOR FY 2002 OPERATING PROSPECTIVE PAYMENT SYSTEM—Continued

[Payments per case]

| | Num. of hosp. (1) | Average FY 2001 payment per case[1] (2) | Average FY 2002 payment per case[1] (3) | All FY 2002 changes (4) |
|---|---|---|---|---|
| Referral Center (RRC) | 152 | 5,542 | 5,754 | 3.8 |
| Other Rural | 70 | 4,320 | 4,479 | 3.7 |
| 100 or more beds | ..... | ..... | ..... | ..... |
| Less than 100 beds | 454 | 3,937 | 4,115 | 4.5 |
| Urban teaching and DSH: | ..... | ..... | ..... | ..... |
| Both teaching and DSH | 758 | 9,081 | 9,250 | 1.9 |
| Teaching and no DSH | 298 | 7,577 | 7,715 | 1.8 |
| No teaching and DSH | 937 | 6,343 | 6,481 | 2.2 |
| No teaching and no DSH | 753 | 5,895 | 6,002 | 1.8 |
| Rural Hospital Types | ..... | ..... | ..... | ..... |
| Non-special status | 805 | 4,048 | 4,204 | 3.8 |
| RRC | 165 | 5,433 | 5,636 | 3.7 |
| SCH | 680 | 4,884 | 5,017 | 2.7 |
| Medicare-dependent hospitals (MDH) | 329 | 3,852 | 3,991 | 3.6 |
| SCH and RRC | 70 | 5,902 | 6,073 | 2.9 |
| Type of Ownership: Voluntary | 2,341 | 7,149 | 7,295 | 2.1 |
| Proprietary | 645 | 6,641 | 6,773 | 2.0 |
| Government | 962 | 6,259 | 6,437 | 2.8 |
| Unknown | 847 | 7,151 | 7,293 | 2.0 |
| Medicare Utilization as a Percent of Inpatient Days: | | | | |
| 0–25 | 396 | 9,564 | 9,807 | 2.5 |
| 25–50 | 1,886 | 8,045 | 8,195 | 1.9 |
| 50–65 | 1,843 | 6,040 | 6,184 | 2.4 |
| Over 65 | 592 | 5,422 | 5,543 | 2.2 |
| Unknown | 78 | 10,360 | 10,433 | 0.7 |
| Hospitals Reclassified by the Medicare Geographic Classification Review Board: FY 2002 Reclassifications: | | | | |
| All Reclassified Hospitals | 628 | 6,234 | 6,438 | 3.3 |
| Standardized Amount Only | 74 | 5,210 | 5,409 | 3.8 |
| Wage Index Only | 391 | 6,103 | 6,270 | 2.8 |
| Both | 58 | 6,876 | 6,919 | 0.6 |
| All Nonreclassified Hospitals | 4,246 | 7,122 | 7,269 | 2.1 |
| All Reclassified Urban Hospitals | 117 | 8,365 | 8,578 | 2.6 |
| Standardized Amount Only | 14 | 5,990 | 6,143 | 2.6 |
| Wage Index Only | 83 | 9,072 | 9,294 | 2.4 |
| Both | 20 | 6,064 | 6,276 | 3.5 |
| Urban Nonreclassified Hospitals | 2,549 | 7,539 | 7,678 | 1.8 |
| All Reclassified Rural Hospitals | 511 | 5,383 | 5,584 | 3.7 |
| Standardized Amount Only | 16 | 5,183 | 5,302 | 2.3 |
| Wage Index Only | 472 | 5,387 | 5,589 | 3.7 |
| Both | 23 | 5,381 | 5,597 | 4.0 |
| Rural Nonreclassified Hospitals | 1,577 | 4,271 | 4,399 | 3.0 |
| Other Reclassified Hospitals (Section 1886(D)(8)(B)) | 41 | 4,838 | 5,043 | 4.2 |

[1] These payment amounts per case do not reflect any estimates of annual case-mix increase.

Table II presents the projected impact of the final changes for FY 2002 for urban and rural hospitals and for the different categories of hospitals shown in Table I. It compares the estimated payments per case for FY 2001 with the average estimated per case payments for FY 2002, as calculated under our models. Thus, this table presents, in terms of the average dollar amounts paid per discharge, the combined effects of the changes presented in Table I. The percentage changes shown in the last column of Table II equal the percentage changes in average payments from column 8 of Table I.

## IX. Impact for Critical Access Hospitals (CAHs)

There are approximately 365 facilities that qualify as CAHs. These CAHs are paid based on reasonable costs for their services to inpatients and outpatients. We examined several parts of the final rule, as discussed in detail in section VI.B. of the preamble, for their potential impact on CAHs.

### *A. Exclusion of CAHs From Payment Window Requirements*

In this final rule, we are clarifying the policy that CAHs are not subject to the payment window provisions of section 1886(a)(3) of the Act. Existing regulations do not require application of these provisions to CAHs, and we are not aware of specific situations in which they are now being applied. Consequently, we do not expect any increase or decrease in Medicare spending based on this clarification.

### *B. Availability of CRNA Pass-Through for CAHs*

Under existing § 412.113(c), CRNA pass-through payment is available only to hospitals that either qualified for the pass-through of costs of anesthesia services furnished in calendar year

1989, or met certain conditions, including having employed or contracted with a qualified nonphysician anesthetist as of January 1, 1988, to perform anesthesia services. In this final rule, we are specifying that certain CAHs that meet the pass-through criteria would qualify for pass-through payments. Under the existing criterion, we believe the only facilities that could qualify for the pass-through as CAHs are those that would have qualified for the pass-through if they had elected to continue participating in Medicare as hospitals rather than converting to CAH status. We do not expect any increase or decrease in Medicare spending based on the final change in the regulations.

*C. Payment for Emergency Room On-Call Physicians*

In accordance with the amendments made by section 204 of Public Law 106–544, in this final rule, we are specifying that we will recognize as allowable costs, amounts for reasonable compensation and related costs for emergency room physicians who are on call but who are not present on the premises of a CAH. We expect that at least some CAHs will elect to compensate emergency room physicians for being on call and that, as a result, Medicare spending for CAH services will increase. However, we do not have information to develop a reliable estimate of how many CAHs will make this election, or how much physician compensation costs they will incur for on call time.

*D. Treatment of Ambulance Services Furnished by Certain CAHs*

In accordance with the provisions of section 205 of Public Law 106–554, we are amending the existing CAH regulations to provide for payment to CAHs for the reasonable costs of ambulance services furnished by a CAH or an entity owned or operated by the CAH if certain statutory requirements are met. We expect that at least some CAHs or entities owned or operated by CAHs will be able to qualify for payment for their ambulance services. To the extent that CAHs or CAH owned or operated entities furnish these services under the conditions specified in the law, ambulance services will be paid for at higher rates than would otherwise apply. As a result, Medicare spending for ambulance services will increase. However, we do not have sufficient information or data to develop a reliable estimate of how many CAHs or entities will qualify or the dollar amount of ambulance service costs they will incur.

*E. Qualified Practitioners for Preanesthesia and Postanesthesia Evaluations in CAHs*

As discussed in section VI.B. of this final rule, in an effort to eliminate or minimize potential issues relating to beneficiary access to medical services in rural areas, we are allowing CRNAs who administer the anesthesia to conduct the preanesthesia and postanesthesia evaluations in a CAH. As with any licensed independent health care provider, the final change will not permit CRNAs to practice beyond his or her licensed scope of practice.

We believe that this policy will increase flexibility of providers in furnishing medical services in rural areas. However, we do not have information or data to develop a reliable estimate of how many CRNAs would be used to conduct preanesthesia and postanesthesia evaluations in CAHs or what the associated costs would be.

**X. Impact of Changes in the Capital Prospective Payment System**

*A. General Considerations*

We now have cost report data for the 8th year of the capital prospective payment system (cost reports beginning in FY 1999) available through the March 2001 update of the HCRIS. We also have updated information on the projected aggregate amount of obligated capital approved by the fiscal intermediaries. However, our impact analysis of payment changes for capital-related costs is still limited by the lack of hospital-specific data on several items. These are the hospital's projected new capital costs for each year, its projected old capital costs for each year, and the actual amounts of obligated capital that will be put in use for patient care and recognized as Medicare old capital costs in each year. The lack of this information affects our impact analysis in the following ways:

- Major investment in hospital capital assets (for example, in building and major fixed equipment) occurs at irregular intervals. As a result, there can be significant variation in the growth rates of Medicare capital-related costs per case among hospitals. We do not have the necessary hospital-specific budget data to project the hospital capital growth rate for individual hospitals.
- Our policy of recognizing certain obligated capital as old capital makes it difficult to project future capital-related costs for individual hospitals. Under § 412.302(c), a hospital is required to notify its intermediary that it has obligated capital by the later of October 1, 1992, or 90 days after the beginning of the hospital's first cost reporting period under the capital prospective payment system. The intermediary must then notify the hospital of its determination whether the criteria for recognition of obligated capital have been met by the later of the end of the hospital's first cost reporting period subject to the capital prospective payment system or 9 months after the receipt of the hospital's notification. The amount that is recognized as old capital is limited to the lesser of the actual allowable costs when the asset is put in use for patient care or the estimated costs of the capital expenditure at the time it was obligated. We have substantial information regarding fiscal intermediary determinations of projected aggregate obligated capital amounts. However, we still do not know when these projects will actually be put into use for patient care, the actual amount that will be recognized as obligated capital when the project is put into use, or the Medicare share of the recognized costs. Therefore, we do not know actual obligated capital commitments for purposes of the FY 2002 capital cost projections. In Appendix B of this final rule, we discuss the assumptions and computations that we employ to generate the amount of obligated capital commitments for use in the FY 2002 capital cost projections.

In Table III of this section, we present the redistributive effects that are expected to occur between ''hold-harmless'' hospitals and ''fully prospective'' hospitals in FY 2002. In addition, we have integrated sufficient hospital-specific information into our actuarial model to project the impact of the FY 2002 capital payment policies by the standard prospective payment system hospital groupings. While we now have actual information on the effects of the transition payment methodology and interim payments under the capital prospective payment system and cost report data for most hospitals, we still need to randomly generate numbers for the change in old capital costs, new capital costs for each year, and obligated amounts that will be put in use for patient care services and recognized as old capital each year. We continue to be unable to predict accurately FY 2002 capital costs for individual hospitals, but with the most recent data on hospitals' experience under the capital prospective payment system, there is adequate information to estimate the aggregate impact on most hospital groupings.

*B. Projected Impact Based on the FY 2002 Actuarial Model*

1. Assumptions

In this impact analysis, we model dynamically the impact of the capital prospective payment system from FY 2001 to FY 2002 using a capital cost model. The FY 2002 model, as described in Appendix B of this final rule, integrates actual data from individual hospitals with randomly generated capital cost amounts. We have capital cost data from cost reports beginning in FY 1989 through FY 1999 as reported on the March 2001 update of HCRIS, interim payment data for hospitals already receiving capital prospective payments through PRICER, and data reported by the intermediaries that include the hospital-specific rate determinations that have been made through April 1, 2001 in the provider-specific file. We used these data to determine the FY 2002 capital rates. However, we do not have individual hospital data on old capital changes, new capital formation, and actual obligated capital costs. We have data on costs for capital in use in FY 1999, and we age that capital by a formula described in Appendix B. Therefore, we need to randomly generate only new capital acquisitions for any year after FY 1999. All Federal rate payment parameters are assigned to the applicable hospital. We will continue to pay regular exceptions during cost reporting periods beginning before October 1, 2001 but ending in FY 2002. However, in FY 2003 and later, payments will no longer be made under the regular exceptions provision; hence, we will no longer require the actuarial model described in Appendix B of this final rule.

For purposes of this impact analysis, the FY 2002 actuarial model includes the following assumptions:

- Medicare inpatient capital costs per discharge will change at the following rates during these periods:

AVERAGE PERCENTAGE CHANGE IN CAPITAL COSTS PER DISCHARGE

| Fiscal year | Percentage change |
|---|---|
| 2000 | 1.39 |
| 2001 | 1.37 |
| 2002 | 2.58 |

- We estimate that the Medicare case-mix index will decrease by 0.9 percent in FY 2001 and will increase by 1.0 percent in FY 2002.
- The Federal capital rate and the hospital-specific rate were updated beginning in FY 1996 by an analytical framework that considers changes in the prices associated with capital-related costs and adjustments to account for forecast error, changes in the case-mix index, allowable changes in intensity, and other factors. The FY 2002 update is 1.3 percent (see section IV. of the Addendum to this final rule).

2. Results

We have used the actuarial model to estimate the change in payment for capital-related costs from FY 2001 to FY 2002. Table III shows the effect of the capital prospective payment system on low capital cost hospitals and high capital cost hospitals. We consider a hospital to be a low capital cost hospital if, based on a comparison of its initial hospital-specific rate and the applicable Federal rate, it will be paid under the fully prospective payment methodology. A high capital cost hospital is a hospital that, based on its initial hospital-specific rate and the applicable Federal rate, will be paid under the hold-harmless payment methodology. We are no longer displaying a column for the hospital-specific payments in Table III since, beginning with FY 2001, the transition blend percentage for fully prospective hospitals is 100 percent of the Federal rate and zero percent of the hospital-specific rate, and all hospitals (except ''new'' hospitals under § 412.324(b)) are paid based on 100 percent of the Federal rate for FY 2002. Based on our actuarial model, the breakdown of hospitals is as follows:

CAPITAL TRANSITION PAYMENT METHODOLOGY FOR FY 2002

| Type of hospital | Percent of hospitals | Percent of discharges | Percent of capital costs | Percent of capital payments |
|---|---|---|---|---|
| Low Cost Hospital | 66 | 62 | 57 | 61 |
| High Cost Hospital | 34 | 38 | 43 | 39 |

A low capital cost hospital may request to have its hospital-specific rate redetermined based on old capital costs in the current year, through the later of the hospital's cost reporting period beginning in FY 1994 or the first cost reporting period beginning after obligated capital comes into use (within the limits established in § 412.302(c) for putting obligated capital into use for patient care). If the redetermined hospital-specific rate is greater than the adjusted Federal rate, these hospitals will be paid under the hold-harmless payment methodology. Regardless of whether the hospital became a hold-harmless payment hospital as a result of a redetermination, we continue to show these hospitals as low capital cost hospitals in Table III.

Assuming no behavioral changes in capital expenditures, Table III displays the percentage change in payments from FY 2001 to FY 2002 using the above described actuarial model. With the Federal rate, we estimate aggregate Medicare capital payments will increase by 4.27 percent in FY 2002. This increase is noticeably somewhat lower than last year's (5.48 percent) due in part to the fact that because the transition period ends after FY 2001, there is no longer an increase in the Federal blend percentage, which increased from 90 to 100 percent from FY 2000 to FY 2001, for fully prospective hospitals.

TABLE III.—IMPACT OF CHANGES FOR FY 2002 ON PAYMENTS PER DISCHARGE

| | Number of hospitals | Discharges | Adjusted federal payment | Average federal percent | Hold harm-less payment | Exceptions payment | Total payment | Percent change over FY 2001 |
|---|---|---|---|---|---|---|---|---|
| FY 2001 Payments per Discharge: | | | | | | | | |
| Low Cost Hospitals | 3,127 | 6,769,127 | $620.00 | 99.66 | $2.99 | $5.30 | $628.28 | |
| Fully Prospective | 2,942 | 6,276,252 | 621.64 | 100.00 | | 4.89 | 626.53 | |
| 100% Federal Rate | 169 | 456,256 | 617.75 | 100.00 | | 6.16 | 623.91 | |

TABLE III.—IMPACT OF CHANGES FOR FY 2002 ON PAYMENTS PER DISCHARGE—Continued

| | Number of hospitals | Discharges | Adjusted federal payment | Average federal percent | Hold harmless payment | Exceptions payment | Total payment | Percent change over FY 2001 |
|---|---|---|---|---|---|---|---|---|
| Hold Harmless | 16 | 36,620 | 366.68 | 48.18 | 552.28 | 64.01 | 982.96 | |
| High Cost Hospitals | 1,580 | 4,165,866 | 632.93 | 98.07 | 16.77 | 9.18 | 658.87 | |
| 100% Federal Rate | 1,408 | 3,837,475 | 644.77 | 100.00 | | 7.11 | 651.88 | |
| Hold Harmless | 172 | 328,391 | 494.55 | 75.83 | 212.71 | 33.31 | 740.57 | |
| Total Hospitals | 4,707 | 10,934,994 | 624.92 | 99.04 | 8.24 | 6.77 | 639.94 | |
| FY 2002 Payments per Discharge: | | | | | | | | |
| Low Cost Hospitals | 3,127 | 6,877,112 | 643.74 | 100.00 | | 2.85 | 646.59 | 2.91 |
| Fully Prospective | 2,942 | 6,376,366 | 643.23 | 100.00 | | 2.92 | 646.14 | 3.13 |
| 100% Federal Rate | 185 | 500,747 | 650.23 | 100.00 | | 2.07 | 652.29 | 4.55 |
| High Cost Hospitals | 1,580 | 4,232,640 | 667.73 | 100.00 | | 5.55 | 673.28 | 2.19 |
| 100% Federal Rate | 1,580 | 4,232,640 | 667.73 | 100.00 | | 5.55 | 673.28 | 3.28 |
| Total Hospitals | 4,707 | 11,109,753 | 652.88 | 100.00 | | 3.88 | 656.76 | 2.63 |

We project that low capital cost hospitals paid under the fully prospective payment methodology will experience an average increase in payments per case of 2.91 percent, and high capital cost hospitals will experience an average increase of 2.19 percent. These results are due to the fact that there is no longer an increase in the Federal blend percentage with the conclusion of the capital transition period in FY 2001 for fully prospective hospitals. Beginning FY 2002, all hospitals (except ''new'' hospitals under § 412.324(b)) are paid based on 100 percent of the Federal rate for FY 2002.

For hospitals paid under the fully prospective payment methodology, the Federal rate payment percentage remains at 100 percent from FY 2001 (the last year of the transition period) and since they no longer receive payments based on the hospital-specific rate. The Federal rate payment percentage in FY 2001 for hospitals paid under the hold-harmless payment methodology is based on the hospital's ratio of new capital costs to total capital costs. The average Federal rate payment percentage for high cost hospitals receiving a hold-harmless payment for old capital in FY 2001 will increase from 75.83 percent to 100 percent since the transition period will have ended. All hold-harmless hospitals (except ''new'' hospitals under § 413.324(b)) will be paid based on 100 percent of the Federal rate in FY 2002. We estimate that high cost hospitals (paid based on 100 percent of the Federal rate) will receive a decrease in exceptions payments from $7.11 per discharge in FY 2001 to $5.55 per discharge in FY 2002. This is primarily due to the expiration of the regular exceptions provision in FY 2002.

We are no longer presenting the average hospital-specific rate payment per discharge in Table III because, beginning with FY 2001, the transition blend percentage for fully prospective hospitals is 100 percent of the Federal rate and zero percent of the hospital-specific rate, and all hospitals (except ''new'' hospitals under § 412.324(b)) will be paid based on 100 percent of the Federal rate for FY 2002.

As stated previously, we will continue to pay regular exceptions for cost reporting periods beginning before October 1, 2001, but ending in FY 2002. However, in FY 2003 and later, regular exception payments will no longer be made under the regular exceptions provision but eligible hospitals could receive special exception payments under § 412.348(g).

We estimate that regular exceptions payments will decrease from 1.06 percent of total capital payments in FY 2001 to 0.59 percent of payments in FY 2002. These results are primarily due to the expiration of the regular exceptions after FY 2001 and the limited nature of the special exceptions policy in FY 2002. The projected distribution of the exception payments is shown in the chart below:

ESTIMATED FY 2002 EXCEPTIONS PAYMENTS

| Type of hospital | Number of hospitals | Percent of exceptions payments |
|---|---|---|
| Low Capital Cost | 104 | 46 |
| High Capital Cost | 112 | 54 |
| Total | 216 | 100 |

In the past we presented a cross-sectional summary of hospital groupings by the capital prospective payment transition period methodology generated by our actuarial model (Appendix B). We are no longer including such a comparison since all hospitals (except ''new'' hospitals under § 412.324(b)) will be paid based on 100 percent of the Federal rate in FY 2002 with the conclusion of the 10-year capital transition period.

*C. Cross-Sectional Analysis of Changes in Aggregate Payments*

We used our FY 2002 actuarial model to estimate the potential impact of our changes for FY 2002 on total capital payments per case, using a universe of 4,707 hospitals. The individual hospital payment parameters are taken from the best available data, including: the April 1, 2001 update to the provider-specific file, cost report data, and audit information supplied by intermediaries. In Table IV, we present the results of the cross-sectional analysis using the results of our actuarial model and the aggregate impact of the FY 2002 payment policies. As we explain in Appendix B of this final rule, we were not able to use 88 of the 4,795 hospitals in our database due to insufficient (missing or unusable) data. Consequently, the payment methodology distribution is based on 4,707 hospitals. These data should be fully representative of the payment methodologies that will be applicable to hospitals. Columns 3 and 4 show estimates of payments per case under our model for FY 2001 and FY 2002, respectively. Column 5 shows the total percentage change in payments from FY 2001 to FY 2002. Column 6 presents the percentage change in payments that can be attributed to Federal rate changes alone.

Federal rate changes represented in Column 6 include the 2.28 percent increase in the Federal rate, a 1.0 percent increase in case mix, changes in the adjustments to the Federal rate (for example, the effect of the new hospital wage index on the geographic adjustment factor), and reclassifications by the MGCRB. Column 5 includes the effects of the Federal rate changes represented in Column 6. Column 5 also reflects the effects of all other changes, including the change for all hold-harmless hospitals being paid based on 100 percent of the Federal rate, and changes in exception payments. The comparisons are provided by: (1)

geographic location, (2) region, and (3) payment classification.

The simulation results show that, on average, capital payments per case can be expected to increase 2.6 percent in FY 2002. The results show that the effect of the Federal rate change alone is to increase payments by 3.4 percent. In addition to the increase attributable to the Federal rate change, a 0.8 percent decrease is attributable to the effects of all other changes.

Our comparison by geographic location shows an overall increase in payments to hospitals in all areas. This comparison also shows that urban and rural hospitals will experience slightly different rates of increase in capital payments per case (2.7 percent and 2.0 percent, respectively). This difference is due to the lower rate of decrease for urban hospitals relative to rural hospitals (0.7 percent and 1.4 percent, respectively) from the effect of all other changes. Urban hospitals will gain the same as rural hospitals (3.4 percent) from the effects of Federal rate changes alone.

Most regions are estimated to receive increases in total capital payments per case, partly due to the fact that payments to all hospitals (except ''new'' hospitals under § 412.324(b)) will be based on 100 percent of the Federal rate in FY 2002. Changes by region vary from a minimum increase of 0.7 percent (Mountain rural region) to a maximum increase of 3.5 percent (East North Central region).

By type of ownership, voluntary hospitals are projected to have the largest rate of increase of total payment changes (2.8 percent, a 3.4 percent increase due to the Federal rate changes, and a 0.6 percent decrease from the effects of all other changes). Similarly, payments to government hospitals will increase 2.2 percent (a 3.4 percent increase due to Federal rate changes, and a 1.2 percent decrease from the effects of all other changes), while payments to proprietary hospitals will increase 0.9 percent (a 3.3 percent increase due to Federal rate changes, and a 2.4 percent decrease from the effects of all other changes). This 2.4 percent decrease from all other changes is primarily due to the estimated decrease in exceptions payments and the change for all hold-harmless hospitals being paid based on 100 percent of the Federal rate.

Section 1886(d)(10) of the Act established the MGCRB. Hospitals may apply for reclassification for purposes of the standardized amount, wage index, or both and for purposes of DSH for FYs 1999 through 2001. Although the Federal capital rate is not affected, a hospital's geographic classification for purposes of the operating standardized amount does affect a hospital's capital payments as a result of the large urban adjustment factor and the disproportionate share adjustment for urban hospitals with 100 or more beds. Reclassification for wage index purposes also affects the geographic adjustment factor, since that factor is constructed from the hospital wage index.

To present the effects of the hospitals being reclassified for FY 2002 compared to the effects of reclassification for FY 2001, we show the average payment percentage increase for hospitals reclassified in each fiscal year and in total. For FY 2002 reclassifications, we indicate those hospitals reclassified for standardized amount purposes only, for wage index purposes only, and for both purposes. The reclassified groups are compared to all other nonreclassified hospitals. These categories are further identified by urban and rural designation.

Hospitals reclassified for FY 2002 as a whole are projected to experience a 2.5 percent increase in payments (a 3.4 percent increase attributable to Federal rate changes and a 0.9 percent decrease attributable to the effects of all other changes). Payments to nonreclassified hospitals will increase slightly more (2.6 percent) than reclassified hospitals (2.5 percent) overall. Payments to nonreclassified hospitals will increase the same as reclassified hospitals from the Federal rate changes (3.4 percent), and they will lose slightly less from the effects of all other changes (0.8 percent compared to 0.9 percent, respectively).

TABLE IV.—COMPARISON OF TOTAL PAYMENTS PER CASE

[FY 2001 Payments compared to FY 2002 payments]

| | Number of hospitals | Average FY 2001 payments/case | Average FY 2002 payments/case | All charges | Portion attributable to federal rate change |
|---|---|---|---|---|---|
| By Geographic Location: | | | | | |
| All hospitals | 4,707 | 640 | 657 | 2.6 | 3.4 |
| Large urban areas (populations over 1 million) | 1,518 | 742 | 763 | 2.9 | 3.4 |
| Other urban areas (populations of 1 million fewer) | 1,110 | 629 | 645 | 2.5 | 3.4 |
| Rural areas | 2,079 | 433 | 442 | 2.0 | 3.4 |
| Urban hospitals | 2,628 | 693 | 712 | 2.7 | 3.4 |
| 0–99 beds | 638 | 504 | 501 | -0.6 | 3.2 |
| 100–199 beds | 932 | 591 | 604 | 2.3 | 3.3 |
| 200–299 beds | 527 | 662 | 681 | 2.9 | 3.4 |
| 300–499 beds | 382 | 734 | 757 | 3.2 | 3.4 |
| 500 or more beds | 149 | 890 | 917 | 3.0 | 3.4 |
| Rural hospitals | 2,079 | 433 | 442 | 2.0 | 3.4 |
| 0–49 beds | 1,218 | 364 | 371 | 1.7 | 3.3 |
| 50–99 beds | 516 | 406 | 414 | 1.9 | 3.3 |
| 100–149 beds | 203 | 443 | 450 | 1.8 | 3.4 |
| 150–199 beds | 75 | 482 | 494 | 2.4 | 3.3 |
| 200 or more beds | 67 | 541 | 553 | 2.2 | 3.4 |
| By Region: | | | | | |
| Urban by Region | 2,628 | 693 | 712 | 2.7 | 3.4 |
| New England | 137 | 733 | 757 | 3.4 | 3.5 |
| Middle Atlantic | 406 | 776 | 797 | 2.6 | 3.3 |
| South Atlantic | 391 | 665 | 682 | 2.5 | 3.4 |
| East North Central | 445 | 666 | 690 | 3.5 | 3.4 |
| East South Central | 156 | 628 | 643 | 2.4 | 3.4 |
| West North Central | 179 | 687 | 708 | 3.0 | 3.4 |

TABLE IV.—COMPARISON OF TOTAL PAYMENTS PER CASE—Continued

[FY 2001 Payments compared to FY 2002 payments]

| | Number of hospitals | Average FY 2001 payments/case | Average FY 2002 payments/case | All charges | Portion attributable to federal rate change |
|---|---|---|---|---|---|
| West South Central | 319 | 659 | 668 | 1.4 | 3.3 |
| Mountain | 126 | 681 | 690 | 1.3 | 3.4 |
| Pacific | 423 | 783 | 808 | 3.3 | 3.4 |
| Puerto Rico | 46 | 290 | 299 | 3.1 | 3.1 |
| Rural by Region | 2,079 | 433 | 442 | 2.0 | 3.4 |
| New England | 50 | 519 | 530 | 2.1 | 3.4 |
| Middle Atlantic | 74 | 453 | 467 | 3.1 | 3.4 |
| South Atlantic | 269 | 449 | 455 | 1.2 | 3.3 |
| East North Central | 276 | 441 | 452 | 2.4 | 3.4 |
| East South Central | 260 | 403 | 412 | 2.2 | 3.4 |
| West North Central | 479 | 421 | 430 | 2.3 | 3.4 |
| West South Central | 327 | 388 | 393 | 1.4 | 3.3 |
| Mountain | 195 | 458 | 461 | 0.7 | 3.2 |
| Pacific | 144 | 513 | 528 | 3.0 | 3.4 |
| By Payment Classification: | | | | | |
| All hospitals | 4,707 | 640 | 657 | 2.6 | 3.4 |
| Large urban areas (populations over 1 million) | 1,589 | 735 | 756 | 2.8 | 3.4 |
| Other urban areas (populations of 1 million or fewer) | 1,081 | 631 | 647 | 2.5 | 3.4 |
| Rural areas | 2,037 | 431 | 440 | 2.1 | 3.4 |
| Teaching Status: | | | | | |
| Non-teaching | 3,582 | 526 | 536 | 2.0 | 3.4 |
| Fewer than 100 Residents | 888 | 668 | 689 | 3.1 | 3.4 |
| 100 or more Residents | 237 | 996 | 1,027 | 3.1 | 3.4 |
| Urban DSH: | | | | | |
| 100 or more beds | 1,374 | 729 | 750 | 2.8 | 3.4 |
| Less than 100 beds | 309 | 483 | 486 | 0.5 | 3.2 |
| Rural DSH: | | | | | |
| Sole Community (SCH/EACH) | 545 | 395 | 395 | 0.1 | 3.2 |
| Referral Center (RRC/EACH) | 152 | 495 | 505 | 1.9 | 3.4 |
| Other Rural: | | | | | |
| 100 or more beds | 70 | 407 | 418 | 2.6 | 3.3 |
| Less than 100 beds | 449 | 366 | 378 | 3.0 | 3.4 |
| Urban teaching and no DSH: | | | | | |
| Both teaching and DSH | 757 | 805 | 829 | 3.0 | 3.4 |
| Teaching and no DSH | 297 | 712 | 737 | 3.4 | 3.4 |
| No teaching and DSH | 926 | 583 | 596 | 2.2 | 3.3 |
| No teaching and no DSH | 690 | 577 | 587 | 1.7 | 3.4 |
| Rural Hospital Types: | | | | | |
| Non special status hospitals | 794 | 381 | 392 | 3.1 | 3.4 |
| RRC/EACH | 165 | 498 | 513 | 3.0 | 3.4 |
| SCH/EACH | 680 | 417 | 418 | 0.2 | 3.2 |
| Medicare-dependent hospitals (MDH) | 328 | 353 | 363 | 2.8 | 3.4 |
| SCH, RRC and EACH | 70 | 500 | 503 | 0.6 | 3.3 |
| Hospitals Reclassified by the Medicare Geographic Classification Review Board: | | | | | |
| Reclassification Status During FY01 and FY02: | | | | | |
| Reclassified During Both FY01 and FY02 | 475 | 560 | 573 | 2.4 | 3.4 |
| Reclassified During FY02 Only | 152 | 558 | 573 | 2.7 | 3.4 |
| Reclassified During FY01 Only | 51 | 489 | 504 | 3.0 | 3.4 |
| FY02 Reclassifications: | | | | | |
| All Reclassified Hospitals | 627 | 559 | 573 | 2.5 | 3.4 |
| All Nonclassified Hospitals | 4,159 | 652 | 670 | 2.6 | 3.4 |
| All Urban Reclassified Hospitals | 117 | 742 | 765 | 3.1 | 3.4 |
| Urban nonreclassified Hospitals | 2,473 | 692 | 711 | 2.7 | 3.4 |
| All Reclassified Rural Hospitals | 510 | 486 | 496 | 2.1 | 3.4 |
| Rural Nonreclassified Hospitals | 1,566 | 384 | 391 | 1.8 | 3.3 |
| Other Reclassified Hospitals (Section 1886(D)(8)(B)) | 41 | 439 | 452 | 3.0 | 3.4 |
| Type of Ownership: | | | | | |
| Voluntary | 2,327 | 654 | 672 | 2.8 | 3.4 |
| Proprietary | 627 | 632 | 637 | 0.9 | 3.3 |
| Government | 954 | 558 | 570 | 2.2 | 3.4 |
| Medicare Utilization as a Percent of Inpatient Days: | | | | | |
| 0–25 | 390 | 831 | 854 | 2.7 | 3.4 |
| 25–50 | 1,873 | 729 | 750 | 3.0 | 3.4 |
| 50–65 | 1,832 | 561 | 576 | 2.6 | 3.4 |
| Over 65 | 585 | 514 | 516 | 0.3 | 3.3 |

**Appendix B:**

Technical Appendix on the Capital Cost Model and Required Adjustments

Under section 1886(g)(1)(A) of the Act, we set capital prospective payment rates for FY 1992 through FY 1995 so that aggregate prospective payments for capital costs were projected to be 10 percent lower than the amount that would have been payable on a reasonable cost basis for capital-related costs in that year. To implement this requirement, we developed the capital acquisition model to determine the budget neutrality adjustment factor. Even though the budget neutrality requirement expired effective with FY 1996, we must continue to determine the recalibration and geographic reclassification budget neutrality adjustment factor and the reduction in the Federal and hospital-specific rates for exceptions payments. To determine these factors, we must continue to project capital costs and payments.

We will continue to pay regular exceptions for cost reporting periods beginning before October 1, 2001 but ending in FY 2002. In FY 2003 and later, no payments will be made under the regular exceptions policy; hence, we will not compute a budget neutrality factor for regular exceptions in FY 2003 and later. As described in section V.D. of the preamble of this final rule, the budget neutrality adjustment for special exceptions will be based on historical costs. Consequently, there will be no need to estimate capital costs with the capital acquisition model. We will not publish this appendix after this final rule for the FY 2002 capital rates.

We used the capital acquisition model from the start of prospective payments for capital costs through FY 1997. We now have 8 years of cost reports under the capital prospective payment system. For FY 1998, we developed a new capital cost model to replace the capital acquisition model. This revised model makes use of the data from these cost reports.

The following cost reports are used in the capital cost model for this proposed rule: the March 31, 2001 update of the cost reports for PPS–IX (cost reporting periods beginning in FY 1992), PPS–X (cost reporting periods beginning in FY 1993), PPS–XI (cost reporting periods beginning in FY 1994), PPS–XII (cost reporting periods beginning in FY 1995), PPS–XIII (cost reporting periods beginning in FY 1996), PPS–XIV (cost reporting periods beginning in FY 1997), PPS–XV (cost reporting periods beginning in FY 1998), and PPS–XVI (cost reporting periods beginning in FY 1999). In addition, to model payments, we use the April 1, 2001 update of the provider-specific file, and the March 1995 update of the intermediary audit file.

Since hospitals under alternative payment system waivers (that is, hospitals in Maryland) are currently excluded from the capital prospective payment system, we excluded these hospitals from our model.

We developed FY 1992 through FY 2001 hospital-specific rates using the provider-specific file and the intermediary audit file. (We used the cumulative provider-specific file, which includes all updates to each hospital's records, and chose the latest record for each fiscal year.) We checked the consistency between the provider-specific file and the intermediary audit file. We ensured that increases in the hospital-specific rates were at least as large as the published updates (increases) for the hospital-specific rates each year. We were able to match hospitals to the files as shown in the following table:

| Source | Number of hospitals |
|---|---|
| No Match | 1 |
| Provider-Specific File Only | 188 |
| Provider-Specific and Audit File | 4,606 |
| Total | 4,795 |

One hundred sixteen of the 4,795 hospitals had unusable or missing data, or had no cost reports available. For 50 of the 116 hospitals, we were unable to determine a hospital-specific rate from the available cost reports. However, there was adequate cost information to determine that these hospitals were paid under the hold-harmless methodology. Since the hospital-specific rate is not used to determine payments for hospitals paid under the hold-harmless methodology, there was sufficient cost report information available to include these 50 hospitals in the analysis. We were able to estimate hospital-specific amounts from the cost reports as shown in the following table.

| Cost report | Number of hospitals |
|---|---|
| PPS–9 | 1 |
| PPS–12 | 1 |
| PPS–13 | 1 |
| PPS–14 | 1 |
| PPS–15 | 2 |
| PPS–16 | 13 |
| Total | 19 |

Hence, we were able to use 69 (50 plus 19) of the 116 hospitals. The remaining 47 of the 116 hospitals could not be used in the analysis because we were not able to estimate their hospital-specific amount. An additional 41 hospitals could not be used in the analysis because we could not determine their capital costs, either because we had no cost reports for them or because there was insufficient cost report data. Accordingly, we used 4,707 hospitals for the analysis. Eighty-eight (47 plus 41) hospitals could not be used in the analysis because of insufficient (missing or unusable) information. These hospitals account for about 0.3 percent of admissions. Therefore, any effects from the elimination of their cost report data should be minimal.

We analyzed changes in capital-related costs (depreciation, interest, rent, leases, insurance, and taxes) reported in the cost reports. We found a wide variance among hospitals in the growth of these costs. For hospitals with more than 100 beds, the distribution and mean of these cost increases were different for large changes in bed-size (greater than ±20 percent). We also analyzed changes in the growth in old capital and new capital for cost reports that provided this information. For old capital, we limited the analysis to decreases in old capital. We did this since the opportunity for most hospitals to treat ''obligated'' capital put into service as old capital has expired. Old capital costs should decrease as assets become fully depreciated and as interest costs decrease as the loan is amortized.

The new capital cost model separates the hospitals into three mutually exclusive groups. Hold-harmless hospitals with data on old capital were placed in the first group. Of the remaining hospitals, those hospitals with fewer than 100 beds comprise the second group. The third group consists of all hospitals that did not fit into either of the first two groups. Each of these groups displayed unique patterns of growth in capital costs. We found that the gamma distribution is useful in explaining and describing the patterns of increase in capital costs. A gamma distribution is a statistical distribution that can be used to describe patterns of growth rates, with the greatest proportion of rates being at the low end. We use the gamma distribution to estimate individual hospital rates of increase as follows:

(1) For hold-harmless hospitals, old capital cost changes were fitted to a truncated gamma distribution, that is, a gamma distribution covering only the distribution of cost decreases. New capital costs changes were fitted to the entire gamma distribution, allowing for both decreases and increases.

(2) For hospitals with fewer than 100 beds (small), total capital cost changes were fitted to the gamma distribution, allowing for both decreases and increases.

(3) Other (large) hospitals were further separated into three groups:

- Bed-size decreases over 20 percent (decrease).
- Bed-size increases over 20 percent (increase).
- Other (no change).

Capital cost changes for large hospitals were fitted to gamma distributions for each bed-size change group, allowing for both decreases and increases in capital costs. We analyzed the probability distribution of increases and decreases in bed size for large hospitals. We found the probability somewhat dependent on the prior year change in bed size and factored this dependence into the analysis. Probabilities of bed-size change were determined. Separate sets of probability factors were calculated to reflect the dependence on prior year change in bed size (increase, decrease, and no change).

The gamma distributions were fitted to changes in aggregate capital costs for the entire hospital. We checked the relationship between aggregate costs and Medicare per discharge costs. For large hospitals, there was a small variance, but the variance was larger for small hospitals. Since costs are used only for the hold-harmless methodology and to determine exceptions, we decided to use the gamma distributions fitted to aggregate cost increases for estimating distributions of cost per discharge increases.

Capital costs per discharge calculated from the cost reports were increased by random

numbers drawn from the gamma distribution to project costs in future years. Old and new capital were projected separately for hold-harmless hospitals. Aggregate capital per discharge costs were projected for all other hospitals. Because the distribution of increases in capital costs varies with changes in bed size for large hospitals, we first projected changes in bed size for large hospitals before drawing random numbers from the gamma distribution. Bed-size changes were drawn from the uniform distribution with the probabilities dependent on the previous year bed-size change. The gamma distribution has a shape parameter and a scaling parameter. (We used different parameters for each hospital group, and for old and new capital.)

We used discharge counts from the cost reports to calculate capital cost per discharge. To estimate total capital costs for FY 2000 (the MedPAR data year) and later, we use the number of discharges from the MedPAR data. Some hospitals had considerably more discharges in FY 2000 than in the years for which we calculated cost per discharge from the cost report data. Consequently, a hospital with few cost report discharges would have a high capital cost per discharge, since fixed costs would be allocated over only a few discharges. If discharges increase substantially, the cost per discharge would decrease because fixed costs would be allocated over more discharges. If the projection of capital cost per discharge is not adjusted for increases in discharges, the projection of exceptions would be overstated. We address this situation by recalculating the cost per discharge with the MedPAR discharges if the MedPAR discharges exceed the cost report discharges by more than 20 percent. We do not adjust for increases of less than 20 percent because we have not received all of the FY 2000 discharges, and we have removed some discharges from the analysis because they are statistical outliers. This adjustment reduces our estimate of exceptions payments, and consequently, the reduction to the Federal rate for exceptions is smaller. We will continue to monitor our modeling of exceptions payments and make adjustments as needed.

The average national capital cost per discharge generated by this model is the combined average of many randomly generated increases. This average must equal the projected average national capital cost per discharge, which we projected separately (outside this model). We adjusted the shape parameter of the gamma distributions so that the modeled average capital cost per discharge matches our projected capital cost per discharge. The shape parameter for old capital was not adjusted since we are modeling the aging of ''existing'' assets. This model provides a distribution of capital costs among hospitals that is consistent with our aggregate capital projections.

Once each hospital's capital-related costs are generated, the model projects capital payments. We use the actual payment parameters (for example, the case-mix index and the geographic adjustment factor) that are applicable to the specific hospital.

To project capital payments, the model first assigns the applicable payment methodology (fully prospective or hold-harmless) to the hospital as determined from the provider-specific file and the cost reports. The model simulates Federal rate payments using the assigned payment parameters and hospital-specific estimated outlier payments. The case-mix index for a hospital is derived from the FY 2000 MedPAR file using the FY 2002 DRG relative weights included in section VI. of the Addendum to this final rule. The case-mix index is increased each year after FY 2000 based on analysis of past experiences in case-mix increases. Based on analysis of recent case-mix increases, we estimate that case-mix will decrease 0.9 percent in FY 2001. We project that case-mix will increase 1.0 percent in FY 2002. (Since we are using FY 2000 cases for our analysis, the FY 2000 increase in case-mix has no effect on projected capital payments.)

Changes in geographic classification and revisions to the hospital wage data used to establish the hospital wage index affect the geographic adjustment factor. Changes in the DRG classification system and the relative weights affect the case-mix index.

Section 412.308(c)(4)(ii) requires that the estimated aggregate payments for the fiscal year, based on the Federal rate after any changes resulting from DRG reclassifications and recalibration and the geographic adjustment factor, equal the estimated aggregate payments based on the Federal rate that would have been made without such changes. For FY 2001, the budget neutrality adjustment factors were 0.99933 for the national rate and 1.00508 for the Puerto Rico rate. In determining these factors, we used the factors from the first half of FY 2001 (October 2000 through March 2001) published in the August 1, 2000 final rule since section 547 of Public Law 106–554 specifies that the special increases and adjustments in effect between April and October 2001 do not apply for discharges occurring after FY 2001 and should not be included in determining the payment rates in subsequent years.

Since we implemented a separate geographic adjustment factor for Puerto Rico, we applied separate budget neutrality adjustments for the national geographic adjustment factor and the Puerto Rico geographic adjustment factor. We applied the same budget neutrality factor for DRG reclassifications and recalibration nationally and for Puerto Rico. Separate adjustments were unnecessary for FY 1998 and earlier since the geographic adjustment factor for Puerto Rico was implemented in FY 1998.

To determine the factors for FY 2002, we first determined the portions of the Federal national and Puerto Rico rates that would be paid for each hospital in FY 2002 based on its applicable payment methodology. Using our model, we then compared, separately for the national rate and the Puerto Rico rate, estimated aggregate Federal rate payments based on the FY 2001 DRG relative weights and the FY 2001 geographic adjustment factor to estimated aggregate Federal rate payments based on the FY 2001 relative weights and the FY 2002 geographic adjustment factor. In making the comparison, we held the FY 2002 Federal rate portion constant and set the other budget neutrality adjustment factor and the regular and special exceptions reduction factors to 1.00. To achieve budget neutrality for the changes in the national geographic adjustment factor, we applied an incremental budget neutrality adjustment of 0.99666 for FY 2002 to the previous cumulative FY 2001 adjustment of 0.99933, yielding a cumulative adjustment of 0.99599 through FY 2002. For the Puerto Rico geographic adjustment factor, we applied an incremental budget neutrality adjustment of 0.98991 for FY 2002 to the previous cumulative FY 2001 adjustment of 1.00508, yielding a cumulative adjustment of 0.99494 through FY 2002. We then compared estimated aggregate Federal rate payments based on the FY 2001 DRG relative weights and the FY 2002 geographic adjustment factors to estimated aggregate Federal rate payments based on the FY 2002 DRG relative weights and the FY 2002 geographic adjustment factors. The incremental adjustment for DRG classifications and changes in relative weights is 0.99668 nationally and for Puerto Rico. The cumulative adjustments for DRG classifications and changes in relative weights and for changes in the geographic adjustment factors through FY 2002 are 0.99268 nationally and 0.99164 for Puerto Rico. The following table summarizes the adjustment factors for each fiscal year:

BUDGET NEUTRALITY ADJUSTMENT FOR DRG RECLASSIFICATIONS AND RECALIBRATION AND THE GEOGRAPHIC ADJUSTMENT FACTORS

| Fiscal year | National | | | | Puerto Rico | | | |
|---|---|---|---|---|---|---|---|---|
| | Incremental adjustment | | | Cumulative | Incremental adjustment | | | Cumulative |
| | Geographic adjustment factor | DRG reclassifications and recalibration | Combined | | Geographic adjustment factor | DRG reclassifications and recalibration | Combined | |
| 1992 | | | | 1.00000 | | | | |
| 1993 | | | 0.99800 | 0.99800 | | | | |

BUDGET NEUTRALITY ADJUSTMENT FOR DRG RECLASSIFICATIONS AND RECALIBRATION AND THE GEOGRAPHIC ADJUSTMENT FACTORS—Continued

| Fiscal year | National | | | | Puerto Rico | | | |
|---|---|---|---|---|---|---|---|---|
| | Incremental adjustment | | | Cumulative | Incremental adjustment | | | Cumulative |
| | Geographic adjustment factor | DRG reclassifications and recalibration | Combined | | Geographic adjustment factor | DRG reclassifications and recalibration | Combined | |
| 1994 | | | 1.00531 | 1.00330 | | | | |
| 1995 | | | 0.99980 | 1.00310 | | | | |
| 1996 | | | 0.99940 | 1.00250 | | | | |
| 1997 | | | 0.99873 | 1.00123 | | | | |
| 1998 | | | 0.99892 | 1.00015 | | | | 1.00000 |
| 1999 | 0.99944 | 1.00335 | 1.00279 | 1.00294 | 0.99898 | 1.00335 | 1.00233 | 1.00233 |
| 2000 | 0.99857 | 0.99991 | 0.99848 | 1.00142 | 0.99910 | 0.99991 | 0.99901 | 1.00134 |
| 2001[1] | 0.99846 | 1.00019 | 0.99865 | 0.99933 | 1.00365 | 1.00009 | 1.00374 | 1.00508 |
| 2001[2] | [3]0.99771 | [3]1.00009 | [3]0.99780 | 0.99922 | [3]1.00365 | [3]1.00009 | [3]1.00374 | 1.00508 |
| 2002 | [4]0.99666 | [4]0.99668 | [4]0.99335 | 0.99268 | [4]0.98991 | [4]0.99668 | [4]0.99662 | 0.99164 |

[1] Factors effective for the first half of FY 2001 (October 2000 through March 2001).
[2] Factors effective for the second half of FY 2001 (April 2001 through September 2001).
[3] Incremental factors are applied to FY 2000 cumulative factors.
[4] Incremental factors are applied to the cumulative factors for the first half of FY 2001.

The methodology used to determine the recalibration and geographic (DRG/GAF) budget neutrality adjustment factor is similar to that used in establishing budget neutrality adjustments under the prospective payment system for operating costs. One difference is that, under the operating prospective payment system, the budget neutrality adjustments for the effect of geographic reclassifications are determined separately from the effects of other changes in the hospital wage index and the DRG relative weights. Under the capital prospective payment system, there is a single DRG/GAF budget neutrality adjustment factor (the national rate and the Puerto Rico rate are determined separately) for changes in the geographic adjustment factor (including geographic reclassification) and the DRG relative weights. In addition, there is no adjustment for the effects that geographic reclassification has on the other payment parameters, such as the payments for serving low-income patients or the large urban add-on payments.

In addition to computing the DRG/GAF budget neutrality adjustment factor, we used the model to simulate total payments under the prospective payment system.

Additional payments under the exceptions process are accounted for through a reduction in the Federal and hospital-specific rates. For FY 2002 additional payments for the ''regular'' exceptions are made only for cost reporting periods that begin before October 1, 2001. The adjustment for ''special'' exceptions payments (see § 412.348(g)) is described in section V.D. of the preamble of this final rule. Therefore, we used the model to calculate the exceptions reduction factor. This exceptions reduction factor ensures that aggregate payments under the capital prospective payment system, including exceptions payments, are projected to equal the aggregate payments that would have been made under the capital prospective payment system without an exceptions process. In modeling exceptions for FY 2002, we calculated exceptions only for qualifying cost reporting periods. Since changes in the level of the payment rates change the level of payments under the exceptions process, the exceptions reduction factor must be determined through iteration.

In the August 30, 1991 final rule (56 FR 43517), we indicated that we would publish each year the estimated payment factors generated by the model to determine payments for the next 5 years. Since we will no longer use the model after this final rule for the FY 2002 rates, we will discontinue publishing this table after this final rule for the FY 2002 rates. The table below provides the actual factors for FYs 1992 through 2002, and the estimated factors that would be applicable through FY 2006. We caution that these are estimates for FYs 2003 and later, and are subject to revisions resulting from continued methodological refinements, receipt of additional data, and changes in payment policy. We note that in making these projections, we have assumed that the cumulative national DRG/GAF budget neutrality adjustment factor will remain at 0.99268 (0.99164 for Puerto Rico) for FY 2002 and later because we do not have sufficient information to estimate the change that will occur in the factor for years after FY 2002.

The projections are as follows:

| Fiscal year | Update factor | Exceptions reduction factor | Budget neutrality factor | DRG/GAF adjustment factor[1] | Outlier adjustment factor | Federal rate adjustment | Federal rate (after outlier) reduction |
|---|---|---|---|---|---|---|---|
| 1992 | N/A | 0.9813 | 0.9602 | | .9497 | | 415.59 |
| 1993 | 6.07 | .9756 | .9162 | .9980 | .9496 | | 417.29 |
| 1994 | 3.04 | .9485 | .8947 | 1.0053 | .9454 | [2].9260 | 378.34 |
| 1995 | 3.44 | .9734 | .8432 | .9998 | .9414 | | 376.83 |
| 1996 | 1.20 | .9849 | N/A | .9994 | .9536 | [3].9972 | 461.96 |
| 1997 | 0.70 | .9358 | N/A | .9987 | .9481 | | 438.92 |
| 1998 | 0.90 | 9659 | N/A | .9989 | .9382 | [4].8222 | 371.51 |
| 1999 | 0.10 | .9783 | N/A | 1.0028 | .9392 | | 378.10 |
| 2000 | 0.30 | .9730 | N/A | .9985 | .9402 | | 377.03 |
| 2001[5] | 0.90 | .9785 | N/A | .9979 | .9409 | | 382.03 |
| 2002 | 1.30 | [6].9929 | N/A | 0.9933 | .9424 | | 390.74 |
| 2003 | 0.70 | .9975 | N/A | [7]1.0000 | [7].9424 | [4]1.0255 | 405.39 |
| 2004 | 0.70 | .9975 | N/A | 1.0000 | .9424 | | 408.23 |
| 2005 | 0.90 | .9975 | N/A | 1.0000 | .9424 | | 411.90 |
| 2006 | 0.90 | .9975 | N/A | 1.0000 | .9424 | | 415.61 |

[1] The incremental change over the previous year.
[2] OBRA 1993 adjustment.
[3] Adjustment for change in the transfer policy.
[4] Balanced Budget Act of 1997 adjustment.
[5] Rates are for the first half of FY 2001 (October 1, 2000 through March 31, 2001).
[6] Product of general exceptions factor (0.9941) and special exceptions factor (0.9988)

[7] Future adjustments are, for purposes of this projection, assumed to remain at the same level.

## Appendix C: Recommendation of Update Factors for Operating Cost Rates of Payment for Inpatient Hospital Services

### I. Background

Several provisions of the Act address the setting of update factors for inpatient services furnished in FY 2002 by hospitals subject to the prospective payment system and by hospitals or units excluded from the prospective payment system. Section 1886(b)(3)(B)(i)(XVII) of the Act, as amended by section 301 of Public Law 106–554, sets the FY 2002 percentage increase in the operating cost standardized amounts equal to the rate of increase in the hospital market basket minus 0.55 percentage points for prospective payment hospitals in all areas. Section 1886(b)(3)(B)(iv) of the Act sets the FY 2002 percentage increase in the hospital-specific rates applicable to SCHs and MDHs equal to the rate set forth in section 1886(b)(3)(B)(i) of the Act, that is, the same update factor as all other hospitals subject to the prospective payment system, or the rate of increase in the market basket minus 0.55 percentage points. Under section 1886(b)(3)(B)(ii) of the Act, the FY 2002 percentage increase in the rate-of-increase limits for hospitals and units excluded from the prospective payment system ranges from the percentage increase in the excluded hospital market basket less a percentage between 0 and 2.5 percentage points, depending on the hospital's or unit's costs in relation to its limit for the most recent cost reporting period for which information is available, or 0 percentage point if costs do not exceed two-thirds of the limit.

In accordance with section 1886(d)(3)(A) of the Act, we are updating the standardized amounts, the hospital-specific rates, and the rate-of-increase limits for hospitals and units excluded from the prospective payment system as provided in section 1886(b)(3)(B) of the Act. Based on the second quarter 2001 forecast of the FY 2002 market basket increase of 3.3 percent for hospitals subject to the prospective payment system, the update to the standardized amounts is 2.75 percent (that is, the market basket rate of increase minus 0.55 percentage points) for hospitals in both large urban and other areas. The update to the hospital-specific rate applicable to SCHs and MDHs is also 2.75 percent. The update for hospitals and units excluded from the prospective payment system can range from the percentage increase in the excluded hospital market basket (currently estimated at 3.3 percent) minus a percentage between 0 and 2.5 percentage points, or 0 percentage point, resulting in an increase in the rate-of-increase limit between 0.8 and 3.3 percent, or 0 percent.

Section 1886(e)(4) of the Act requires that the Secretary, taking into consideration the recommendations of the Medicare Payment Advisory Commission (MedPAC), recommend update factors for each fiscal year that take into account the amounts necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality. In its March 1, 2001 report, MedPAC stated that the legislated update of market basket minus 0.55 percentage points would provide a reasonable level of payments to hospitals. MedPAC did not make a separate recommendation for the hospital-specific rate applicable to SCHs and MDHs.

Under section 1886(e)(5) of the Act, we are required to publish the update factors recommended under section 1886(e)(4) of the Act. Accordingly, we published the FY 2002 update factors recommended by the Secretary as Appendix D of the May 4, 2001 proposed rule (66 FR 22888). In that appendix, we discussed the recommendations of appropriate update factors, the analysis underlying our recommendations, and our response to MedPAC's recommendations concerning the update factors.

### I. Secretary's Final Recommendations for Updating the Prospective Payment System Standardized Amounts

In recommending an update, the Secretary takes into account the factors in the update framework, as well as the recommendations of MedPAC, the long-term solvency of the Medicare Trust Funds, and the capacity of the hospital industry to continually provide access to high quality care to Medicare beneficiaries through adequate reimbursement to health care providers.

We received several comments concerning our proposed recommendation.

*Comment:* One commenter questioned the reason for the difference between the 3.05 percent update to the standardized amounts recommended by the Secretary to the Congress as printed in the May 4, 2001 proposed rule (65 FR 22885) and the 2.55 percent proposed update used to establish the rates printed in the May 4, 2001 proposed rule (65 FR 22738).

*Response:* The President's FY 2002 budget estimated that the market basket for FY 2002 would be 3.6 percent. This estimate is prepared by the Office of Management and Budget (OMB) by applying future assumptions of economy-wide wage and consumer price index growth to the historical relationship between these factors and the market basket.

The market basket we have historically used to actually update the standardized amounts is estimated by our Office of the Actuary, in conjunction with Global Insights, Inc., DRI-WEFA. Although this estimate is generally very close to the OMB estimate, there are often some discrepancies due to the timing of the estimate and the differing future assumptions of the input factors.

Our final recommendation of the market basket percentage increase minus 0.55 percentage points for the update for hospitals subject to the prospective payment system, which is consistent with current law, did not differ from the proposed. However, the second quarter forecast of the market basket percentage increase is 3.3 for prospective payment hospitals (up from 3.1 estimated in the proposed rule). Thus, the Secretary's final recommendation is that the update to the prospective payment system standardized amounts for both large urban and other urban areas is 2.75 percent (or consistent with current law, market basket percentage increase minus 0.55 percent). The update to the hospital-specific rate applicable to SCHs and MDHs is also 2.75 percent (or consistent with current law, market basket percentage increase minus 0.55 percentage points).

*Comment:* Several commenters addressed the recent increases in the price of blood products. One commenter stated the increases represent up to one percent of annual DRG payments for hospitals that perform a significant number of surgeries. The commenters urged us to ensure that the DRG payments reflect price increases associated with rising blood prices.

*Response:* Section 301(c) of Public Law 106–554 requires the Secretary to consider the price of blood and blood products in the market basket index when the market basket is next rebased and revised and to determine whether those prices are adequately reflected.

### III. Secretary's Final Recommendation for Updating the Rate-of-Increase Limits for Excluded Hospitals and Units

We received no comments concerning our proposed recommendation. Our final recommendation for excluded hospitals and units did not differ from the proposed. However, the second quarter forecast of the market basket percentage increase is 3.3 for excluded hospitals and units (up from 3.0 estimated in the proposed rule). Thus, the Secretary's final recommendation is that the update for hospitals and units excluded from the prospective payment system can range from market basket increase of 3.3 percent minus a percentage between 0 and 2.5 percent, or 0 percent depending on the relationship between the hospital's or unit's costs and its rate-of-increase limit, which results in an increase in the rate-of-increase limit between 0.8 and 3.3 percent, or 0 percent for FY 2002.

[FR Doc. 01–18868 Filed 7–31–01; 8:45 am]

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Federal Register

Wednesday,
August 1, 2001

## Part III

# The President

**Notice of July 31, 2001—Continuation of Iraqi Emergency**

Federal Register
Vol. 66, No. 148
Wednesday, August 1, 2001

# Presidential Documents

**Title 3—**

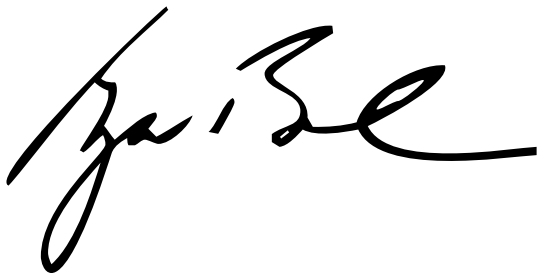
## The President

**Notice of July 31, 2001**

## Continuation of Iraqi Emergency

On August 2, 1990, by Executive Order 12722, President Bush declared a national emergency to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions and policies of the Government of Iraq. By Executive Orders 12722 of August 2, 1990, and 12724 of August 9, 1990, the President imposed trade sanctions on Iraq and blocked Iraqi government assets. Because the Government of Iraq has continued its activities hostile to United States interests in the Middle East, the national emergency declared on August 2, 1990, and the measures adopted on August 2 and August 9, 1990, to deal with that emergency must continue in effect beyond August 2, 2001. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Iraq.

This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
*July 31, 2001.*

[FR Doc. 01–19429
Filed 07–31–01; 11:34 am]
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**Federal Register**

Vol. 66, No. 148

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## CFR PARTS AFFECTED DURING AUGUST

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## REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

## RULES GOING INTO EFFECT AUGUST 1, 2001

**AGRICULTURE DEPARTMENT**

**Agricultural Marketing Service**

Almonds grown in—
- California; published 7-30-01

Cherries (tart) grown in—
- Michigan et al.; published 7-31-01

Nectarines and peaches grown in—
- California; published 7-31-01

Prunes (dried) produced in California; published 6-7-01

**AGRICULTURE DEPARTMENT**

**Food and Nutrition Service**

Food stamp program:
- Food stamp recipient claims; establishment and collection standards; published 7-6-00
- Correction; published 8-2-00

**ENERGY DEPARTMENT**

Assistance regulations:
- Determination that noncompetitive award is in public interest; approval authority change; published 7-2-01

**ENVIRONMENTAL PROTECTION AGENCY**

Pesticide registration, cancellation, etc.:
- Carfentrazone-ethyl; published 8-1-01

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Azoxystrobin; published 8-1-01
- Carfentrazone-ethyl; published 8-1-01
- Clomazone; published 8-1-01
- Lysophosphatidyl-ethanolamine; published 8-1-01
- Sulfentrazone; published 8-1-01

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**

Mortgage and loan insurance programs:
- Multifamily housing programs; mortgage insurance premiums; published 7-2-01

**PENSION BENEFIT GUARANTY CORPORATION**

Single employer plans:
- Allocation of assets—
  - Interest assumptions for valuing and paying benefits; published 7-13-01

**TRANSPORTATION DEPARTMENT**

**Coast Guard**

Ports and waterways safety:
- Cape Fear River and Northeast Cape Fear River, Wilmington, NC; regulated navigation area; published 7-27-01

Regattas and marine parades:
- Seattle Seafair Unlimited Hydroplane Race; published 7-2-01

**TRANSPORTATION DEPARTMENT**

Workplace drug and alcohol testing programs:
- Electronic reporting procedures; early compliance; published 5-23-01

**TRANSPORTATION DEPARTMENT**

**Federal Aviation Administration**

Airworthiness directives:
- Airbus; published 6-27-01
- Bell; published 6-27-01
- Boeing; published 6-27-01
- Dornier; published 6-27-01
- Kaman Aerospace Corp.; published 6-27-01
- Raytheon; published 6-27-01
- Saab; published 6-27-01

**TRANSPORTATION DEPARTMENT**

**Federal Railroad Administration**

Railroad safety:
- Freight and other non-passenger trains and equipment; brake system safety standards; end-of-train devices; published 8-1-01

**TREASURY DEPARTMENT**

**Comptroller of the Currency**

Investment securities, bank activities and operations, and leasing; published 7-2-01
- Correction; published 7-13-01

National banks; fiduciary activities; published 7-2-01

**TREASURY DEPARTMENT**

**Internal Revenue Service**

Employment taxes and collection of income taxes at source:
- Employment tax underpayments; interest free adjustments; published 8-1-01

## COMMENTS DUE NEXT WEEK

**AGRICULTURE DEPARTMENT**

**Agricultural Marketing Service**

Oranges, grapefruit, tangerines, and tangelos grown in—
- Florida; comments due by 8-10-01; published 7-31-01

**COMMERCE DEPARTMENT**

**National Oceanic and Atmospheric Administration**

Fishery conservation and management:
- Alaska; fisheries of Exclusive Economic Zone—
  - American Fisheries Act; emergency revisions; comments due by 8-9-01; published 7-10-01

**ENVIRONMENTAL PROTECTION AGENCY**

Air pollution control; new motor vehicles and engines:
- Light-duty vehicles and trucks and heavy-duty vehicles and engines; on-board diagnostic systems and emission-related repairs; comments due by 8-7-01; published 6-8-01

Air programs; State authority delegations:
- Ohio; comments due by 8-10-01; published 7-11-01

Air quality implementation plans; approval and promulgation; various States:
- California; comments due by 8-6-01; published 7-6-01
- Illinois; comments due by 8-10-01; published 7-11-01
- Texas; comments due by 8-9-01; published 7-10-01

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Bacillus thuringiensis Cry1F protein, etc.; comments due by 8-6-01; published 6-6-01

Superfund program:
- National oil and hazardous substances contingency plan—
  - National priorities list update; comments due by 8-6-01; published 7-5-01
  - National priorities list update; comments due by 8-6-01; published 7-5-01

Water pollution control:
- National Pollutant Discharge Elimination System—
  - Cooling water intake structures for new facilities; comments due by 8-6-01; published 7-6-01

**FEDERAL COMMUNICATIONS COMMISSION**

Digital television stations; table of assignments:
- Kansas; comments due by 8-9-01; published 6-28-01
- South Carolina; comments due by 8-9-01; published 6-28-01

**HEALTH AND HUMAN SERVICES DEPARTMENT**

**Food and Drug Administration**

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- Hematology and pathology; reclassification of automated differential cell counters; comments due by 8-7-01; published 5-9-01

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**

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- Housing Choice Voucher Program; exception payment standard to offset utility costs increase; comments due by 8-6-01; published 6-6-01

**INTERIOR DEPARTMENT**

**Fish and Wildlife Service**

Endangered and threatened species:
- Critical habitat designations—
  - O'ahu 'elepaio; comments due by 8-6-01; published 6-6-01
- Duskytail darter, etc. (four fishes reintroduced into Tellico River, Monroe County, TN); comments due by 8-7-01; published 6-8-01
- Robbins' cinquefoil; comments due by 8-7-01; published 6-8-01

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**Immigration and Naturalization Service**

Nonimmigrant classes:
- H-1C nonimmigrant classification; petitioning requirements; comments due by 8-10-01; published 6-11-01

**LABOR DEPARTMENT**
**Mine Safety and Health Administration**
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**NATIONAL ARCHIVES AND RECORDS ADMINISTRATION**
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**POSTAL SERVICE**
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Boeing; comments due by 8-10-01; published 6-11-01
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**TRANSPORTATION DEPARTMENT**
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Advanced air bags performance monitoring and future air bag rulemaking data development; comments due by 8-9-01; published 6-25-01

**TREASURY DEPARTMENT**
**Thrift Supervision Office**
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Community Reinvestment Act (CRA)-related agreements; disclosure and reporting; comments due by 8-10-01; published 6-11-01

**VETERANS AFFAIRS DEPARTMENT**
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Health-care resources; simplified acquisition procedures; comments due by 8-6-01; published 6-7-01
National Practitioner Data Bank; participation policy; comments due by 8-6-01; published 6-5-01

## LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''PLUS'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

**S. 360/P.L. 107–21**
To honor Paul D. Coverdell. (July 26, 2001; 115 Stat. 194)

**S. 1190/P.L. 107–22**
To amend the Internal Revenue Code of 1986 to rename the education individual retirement accounts as the Coverdell education savings accounts. (July 26, 2001; 115 Stat. 196)

**Last List July 26, 2001**

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## TABLE OF EFFECTIVE DATES AND TIME PERIODS—AUGUST 2001

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

| DATE OF FR PUBLICATION | 15 DAYS AFTER PUBLICATION | 30 DAYS AFTER PUBLICATION | 45 DAYS AFTER PUBLICATION | 60 DAYS AFTER PUBLICATION | 90 DAYS AFTER PUBLICATION |
|---|---|---|---|---|---|
| August 1 | August 16 | August 31 | Sept 17 | Oct 1 | Oct 30 |
| August 2 | August 17 | Sept 4 | Sept 17 | Oct 1 | Oct 31 |
| August 3 | August 20 | Sept 4 | Sept 17 | Oct 2 | Nov 1 |
| August 6 | August 21 | Sept 5 | Sept 20 | Oct 5 | Nov 5 |
| August 7 | August 22 | Sept 6 | Sept 21 | Oct 9 | Nov 5 |
| August 8 | August 23 | Sept 7 | Sept 24 | Oct 9 | Nov 6 |
| August 9 | August 24 | Sept 10 | Sept 24 | Oct 9 | Nov 7 |
| August 10 | August 27 | Sept 10 | Sept 24 | Oct 9 | Nov 8 |
| August 13 | August 28 | Sept 12 | Sept 27 | Oct 12 | Nov 13 |
| August 14 | August 29 | Sept 13 | Sept 28 | Oct 15 | Nov 13 |
| August 15 | August 30 | Sept 14 | Oct 1 | Oct 15 | Nov 13 |
| August 16 | August 31 | Sept 17 | Oct 1 | Oct 15 | Nov 14 |
| August 17 | Sept 4 | Sept 17 | Oct 1 | Oct 16 | Nov 15 |
| August 20 | Sept 4 | Sept 19 | Oct 4 | Oct 19 | Nov 19 |
| August 21 | Sept 5 | Sept 20 | Oct 5 | Oct 22 | Nov 19 |
| August 22 | Sept 6 | Sept 21 | Oct 9 | Oct 22 | Nov 20 |
| August 23 | Sept 7 | Sept 24 | Oct 9 | Oct 22 | Nov 21 |
| August 24 | Sept 10 | Sept 24 | Oct 9 | Oct 23 | Nov 23 |
| August 27 | Sept 11 | Sept 26 | Oct 11 | Oct 26 | Nov 26 |
| August 28 | Sept 12 | Sept 27 | Oct 12 | Oct 29 | Nov 26 |
| August 29 | Sept 13 | Sept 28 | Oct 15 | Oct 29 | Nov 27 |
| August 30 | Sept 14 | Oct 1 | Oct 15 | Oct 29 | Nov 28 |
| August 31 | Sept 17 | Oct 1 | Oct 15 | Oct 30 | Nov 29 |